



2024 REVIEW OF DUST DISEASES SCHEME

Hearing: 29 November 2024

SUPPLEMENTARY QUESTIONS

Mr Trent Curtin and Mr Aklesh Nand, SafeWork NSW

SafeWork NSW

For questions 1-18, please provide information for each financial year from FY19/20 to the most up to date information for FY24/25.

Question	Division																								
1. How many proactive activities has SafeWork undertaken in tunnelling sites? <ul style="list-style-type: none"> a. How many workplace advisory visits? b. How many project activity visits? c. How many verification audits? d. How many of another form of proactive activity? e. How many of these related to air quality? 	SafeWork NSW																								
<p>ANSWER:</p> <p>a. The below data has been identified on the basis of requests for service (RFS) subtype ‘Advisory Visit’ and RFS tagged to major infrastructure tunnelling projects.</p> <table border="1" data-bbox="191 1534 954 1933"> <thead> <tr> <th>Financial Year</th> <th>Number of workplace advisory visits</th> <th>Air Quality Related</th> </tr> </thead> <tbody> <tr><td>2019/2020</td><td>0</td><td>0</td></tr> <tr><td>2020/2021</td><td>0</td><td>0</td></tr> <tr><td>2021/2022</td><td>0</td><td>0</td></tr> <tr><td>2022/2023</td><td>0</td><td>0</td></tr> <tr><td>2023/2024</td><td>1</td><td>0</td></tr> <tr><td>2024/2025</td><td>0</td><td>0</td></tr> <tr><td>Grand Total</td><td>1</td><td>0</td></tr> </tbody> </table> <p>b. Project activity visits have been interpreted to include the following action types: visit, follow-up visit, same visit, visit assist, and visit - no interaction.</p>	Financial Year	Number of workplace advisory visits	Air Quality Related	2019/2020	0	0	2020/2021	0	0	2021/2022	0	0	2022/2023	0	0	2023/2024	1	0	2024/2025	0	0	Grand Total	1	0	
Financial Year	Number of workplace advisory visits	Air Quality Related																							
2019/2020	0	0																							
2020/2021	0	0																							
2021/2022	0	0																							
2022/2023	0	0																							
2023/2024	1	0																							
2024/2025	0	0																							
Grand Total	1	0																							

Tunnelling activity was identified using project/task names and/or keyword search for tunnel/tunnelling.

Financial Year	Number of project activity visit
2019/2020	41
2020/2021	53
2021/2022	50
2022/2023	41
2023/2024	90
2024/2025	32
Grand Total	307

- c. Verification audits has been interpreted as when a verification field action type, or Verification Desk has been used.

Financial Year	Number of verification audits	Air Quality Related
2019/2020	15	10
2020/2021	22	16
2021/2022	17	2
2022/2023	2	0
2023/2024	7	1
2024/2025	4	0
Grand Total	67	29

- d. The only other form of proactive activity identified is external presentations.

Financial Year	Number of External Presentations
2019/2020	2
2020/2021	15
2021/2022	15
2022/2023	12
2023/2024	17
2024/2025	3
Grand Total	64

- e. Refer to answers 1(a) and 1(c).

2. How many proactive activities has SafeWork undertaken in relation to engineered stone?

- How many workplace advisory visits?
- How many project activity visits?
- How many verification audits?
- How many of another form of proactive activity?
- How many of these related to air quality?

SafeWork NSW

ANSWER:

- a. Workplace advisory visits were identified on the basis of silica related RFS identified as RFS Sub Type 'Advisory Visit'. Keywords searched include engineered stone, manufactured stone, manufacturing stone, marble, stone, granite, benchtop, masonry, caesar, 'bench top', and Employer ANZSIC code 2090.

Financial Year	Count of Advisory Visit	Air Quality related
FY2019-2020	1	0
FY2020-2021	1	1
FY2021-2022	1	1
FY2022-2023	0	0
FY2023-2024	4	4
FY2024-2025	6	5
Grand Total	13	11

- b. Project activity visits refer to visit actions under project task name containing engineered stone or manufacturing stone. Visit action includes visit, follow-up visit, Same visit, and Visit Assist. These actions are under silica related engineered stone/manufactured stone project tasks, which primarily conducted matters related to air quality. While some follow-up visit actions were primarily conducted for compliance check on notices, Inspectors also inspected air quality matters.

Financial Year	Count of Project visits	Air Quality related
FY2019-2020	123	123
FY2020-2021	130	130
FY2021-2022	101	101
FY2022-2023	290	290
FY2023-2024	228	228
FY2024-2025	90	90
Grand Total	962	962

- c. Verification Audit numbers were summarised using action types that involves "Verification field" and "Verification Desk" under project task name containing engineered stone or manufacturing stone.

Financial Year	Count of Verification	Air Quality related
FY2019-2020	13	13
FY2020-2021	169	169
FY2021-2022	75	75
FY2022-2023	129	129
FY2023-2024	10	10
FY2024-2025	65	65
Grand Total	461	461

- d. Other proactive activities were summarised using action type that includes external presentation, external meetings, and webinars under project tasks.

Financial Year	Count of Actions	Air Quality related
FY2019-2020	9	9
FY2020-2021	2	2
FY2021-2022	1	1
FY2022-2023	0	0
FY2023-2024	0	0
FY2024-2025	0	0
Grand Total	12	12

e. Refer to answers 2(a)-(d).

3. How many response activities has SafeWork undertaken in relation to tunnelling sites?

SafeWork NSW

- a. How many requests for service?
- b. How many in response to a workplace incident?
- c. How many in relation to enforceable undertakings?
- d. How many of any other form of response activity?
- e. How many of these related to air quality?

ANSWER:

- a. RFS identified where matter type related to safety concern or statutory request, and RFS tagged to Major Infrastructure Project/Tunnelling and/or Issue Description relates to tunnelling project, and/or workplace address relates to tunnelling site, and/or Inspector's report relates to tunnelling project.

Financial Year	Number of RFS	Air Quality Related
2019/2020	29	11
2020/2021	18	4
2021/2022	9	5
2022/2023	36	17
2023/2024	34	16
2024/2025	24	11
Grand Total	150	64

- b. The below data captures workplace incidents that are tagged to Major Infrastructure Project/Tunnelling and/or Issue Description relates to tunnelling project, and/or workplace address relates to tunnelling site, and/or Inspector's report relates to tunnelling project.

Financial Year	Number of Incidents	Air Quality Related
2019/2020	9	0
2020/2021	10	0
2021/2022	12	0
2022/2023	22	0
2023/2024	87	0
2024/2025	34	0
Grand Total	174	0

- c. Nil.
- d. Nil.
- e. Refer to answers 3(a)-(b).

4. How many response activities has SafeWork undertaken in relation to engineered stone?

SafeWork NSW

- a. How many requests for service?
- b. How many in response to a workplace incident?
- c. How many in relation to enforceable undertakings?
- d. How many of any other form of response activity?
- e. How many of these related to air quality?

ANSWER:

- a. RFS identified using keywords engineered stone, manufactured stone, and manufacturing stone, marble, stone, granite, benchtop, masonry, caesar, 'bench top', and Employer ANZSIC code 2090. The air quality related matters were identified using keywords “silica, silicosis, dry cut/drycut, air quality” and manual review.

Financial Year	Count of RFS	Air Quality related
FY2019-2020	37	30
FY2020-2021	20	18
FY2021-2022	25	17
FY2022-2023	31	31
FY2023-2024	49	47
FY2024-2025	15	12
Grand Total	177	155

- b. Workplace incidents (WI) related to air quality were identified using keywords “silica, silicosis, dry cut/drycut, air quality” and manual review.

Financial Year	WI Count	Air Quality related
FY2019-2020	33	22
FY2020-2021	43	36
FY2021-2022	10	1
FY2022-2023	10	5
FY2023-2024	9	2
FY2024-2025	2	0
Grand Total	107	66

- c. Nil.
- d. Nil.
- e. Refer to answers 4(a)-(b).

5. How many non-field response activities has SafeWork undertaken in relation to tunnelling sites?

SafeWork NSW

- a. How many involved the resolution of a request for service?
- b. How many involved the resolution of a reported workplace incident?
- c. How many related to the provision of advice?
- d. How many were the conducting of interviews?
- e. How many were desktop audits?
- f. How many were of any other form of non-field response activity?
- g. How many of these related to air quality?

ANSWER:

- a. RFS from Q3 with a status = completed AND where no field-based action types have been undertaken. Field based actions include Advice provided external – field, follow-up visit, meeting – external, same visit, visit, visit- no interaction, visit assist.

Financial Year	Number of RFS resolved by non-field response activities	Number of non-field response activities	Air Quality Related RFS
2019/2020	11	201	6
2020/2021	4	113	0
2021/2022	3	46	2
2022/2023	9	200	2
2023/2024	13	186	5
2024/2025	10	69	4
Grand Total	50	815	19

- b. Workplace Incidents from Q3 with a status = completed AND where no field-based action types have been undertaken. Field based actions include Advice provided external – field, follow-up visit, meeting – external, same visit, visit, visit- no interaction, visit assist.

Financial Year	Number of WI resolved by non-field response activities	Number of non-field response activities	Air Quality Related WI
2019/2020	1	86	0
2020/2021	4	96	0
2021/2022	3	88	0
2022/2023	4	110	0
2023/2024	31	550	0
2024/2025	14	156	0
Grand Total	57	1086	0

- c. Non field response activities for all tunnelling related RFS/WI where action types relate to provision of advice.

Financial Year	Number of non-field response activities related to provision of advice
2019/2020	10
2020/2021	21
2021/2022	5
2022/2023	19
2023/2024	50
2024/2025	32
Grand Total	137

- d. Non field response activities for all tunnelling related RFS/WI where action types relate to conduction interviews.

Financial Year	Number of non-field response activities = interview
2019/2020	0
2020/2021	0
2021/2022	0
2022/2023	0
2023/2024	0
2024/2025	0
Grand Total	0

- e. Non field response activities for all tunnelling related RFS/WI where action types relate to desktop audits.

Financial Year	Number of non-field response activities = desktop audit
2019/2020	0
2020/2021	0
2021/2022	0
2022/2023	0
2023/2024	0
2024/2025	0
Grand Total	0

- f. Non field response activities for all tunnelling related RFS/WI where action types are any other form of non-field response.

Financial Year	Number of non-field response activities not counted above
2019/2020	277
2020/2021	186
2021/2022	128
2022/2023	291
2023/2024	761
2024/2025	311
Grand Total	1954

- g. Refer to answers 5(a)-(b). It is otherwise noted that SafeWork NSW is unable to provide a breakdown of individual non-field response activities with regards to air quality due to system limitations.

6. How many non-field response activities has SafeWork undertaken in relation to engineered stone?

SafeWork NSW

- How many involved the resolution of a request for service?
- How many involved the resolution of a reported workplace incident?
- How many related to the provision of advice?
- How many were the conducting of interviews?
- How many were desktop audits?
- How many were of any other form of non-field response activity?
- How many of these related to air quality?

ANSWER:

- a. RFS from Q4 with a status of completed AND where no field-based action types have been undertaken. The table below lists number of completed RFS that only have non-field based activities.

Financial Year	Number of RFS resolved by non-field response activities	Air Quality related	Number of non-field response activities
FY2019-2020	14	3	62
FY2020-2021	1	0	15
FY2021-2022	11	2	50
FY2022-2023	4	4	28
FY2023-2024	11	7	91
FY2024-2025	5	1	17
Grand Total	46	17	263

- b. Workplace incidents (WI) from Q4 with a status of completed and where non-field based action types have been undertaken. The table below lists the number of completed WI that only have non-field based activities.

Financial Year	Number of WI resolved by non-field response activities	Air Quality related	Number of non-field response activities
FY2019-2020	12	6	119
FY2020-2021	13	9	45
FY2021-2022	8	1	23
FY2022-2023	5	1	10
FY2023-2024	6	0	46
FY2024-2025	1	0	2

Grand Total	45	17	245
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- c. The below captures the provision of advice identified against all RFS and WI related to engineered stone, where action type included Advice provided external – non-field, and Advice provided internal.

Financial Year	Number of non-field response activities related to provision of advice
FY2019-2020	2
FY2020-2021	0
FY2021-2022	0
FY2022-2023	2
FY2023-2024	6
FY2024-2025	0
Grand Total	10

- d. Non field response activities for all tunnelling related RFS/WI where action types relate to conduction interviews.

Financial Year	Number of non-field response activities = interview
FY2019-2020	4
FY2020-2021	1
FY2021-2022	0
FY2022-2023	0
FY2023-2024	5
FY2024-2025	0
Grand Total	10

- e. Non field response activities for all tunnelling related RFS/WI where action types relate to desktop audits.

Financial Year	Number of non-field response activities = desktop audit
FY2019-2020	0
FY2020-2021	0
FY2021-2022	0
FY2022-2023	0
FY2023-2024	0
FY2024-2025	0
Grand Total	0

- f. Non field response activities for all tunnelling related RFS/WI where action types are any other form of non-field response.

Financial Year	Number of non-field response activities not counted above
FY2019-2020	175
FY2020-2021	65
FY2021-2022	73

FY2022-2023	44
FY2023-2024	153
FY2024-2025	33
Grand Total	543

- g. Refer to answers 6(a)-(b). It is otherwise noted that SafeWork NSW is unable to provide a breakdown of individual non-field response activities with regards to air quality due to system limitations.

7. How many improvement notices have been issued in relation to tunnelling sites?
a. For each improvement notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

Improvement Notices by Summary Type	19/20	20/21	21/22	22/23	23/24	24/25	Grand Total
Plant	6	3			9	1	19
Review of Control Measures			1	3	4	1	9
Electrical	2			3	3		8
Construction hazards				2	3	2	7
Information, training, instruction	4			1	1	1	7
Airborne contaminants	2	4					6
Falls	1			1	3	1	6
Primary Duty of Care		1		4	1		6
Falling objects		1		1	2	1	5
PPE	1	2				2	5
Safe Work Method Statement					4		4
Facilities					3		3
Unsafe workplace	1			1		1	3
Silica dust		1			1		2
Hazardous chemicals					1		1
Scaffolding	1						1
Consultation				1			1
Remote or isolated work				1			1
Excavations					1		1
Grand Total	18	12	1	18	36	10	95

8. How many improvement notices have been issued in relation to engineered stone?
a. For each improvement notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

The below table captures all improvement notices issued in relation WHS non-compliance where engineered stone and silica issues have been identified.

Notice type text summary	19/20	20/21	21/22	22/23	23/24	24/25	Grand Total
Airborne contaminants	5	6	1	13	1	1	27
Construction - SWMS				1	2		3
Consultation	6	5	5	3			19
General Work Health and Safety Notice				4	4		8
General workplace management	8	15	5	16	7	11	62
Hazardous chemicals	2	11	3	5	3	2	26
Health Monitoring Chemicals		1	3	2			6
Health Monitoring Silica	8	37	19	30	9	11	114
Plant			2	6		1	9
PPE	13	60	33	51	16	42	215
S38 - Duty to notify of notifiable incident	1						1
Section 19 - Primary Duty of Care					1	1	2
Silica dust		2	4	14	3	2	25
Grand Total	43	137	75	145	42	75	517

9. How many prohibition notices have been issued in relation to tunnelling sites?
a. For each prohibition notice, what was the nature of the offence?

SafeWork NSW**ANSWER:**

Prohibition Notices by Summary Type	19/20	20/21	21/22	22/23	23/24	24/25	Grand Total
Plant	1	1	1		6	2	11
Falls	1		1	1	1	2	6
Primary Duty of Care					4	1	5
Falling objects	1	2		1			4
Scaffolding					2		2
Electrical				1	1		2
Airborne contaminants	2						2
Unsafe workplace				1			1
Review of Control Measures					1		1
Psychosocial					1		1
Duty of persons involving management or control of fixtures, fittings or plant at workplaces					1		1
Construction hazards						1	1
Grand Total	5	3	2	4	17	6	37

10. How many prohibition notices have been issued in relation to engineered stone?
a. For each prohibition notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

The below table captures all prohibition notices issued in relation to WHS non-compliance where engineered stone and silica issues have been identified.

Notice type text summary	19/20	20/21	21/22	22/23	23/24	24/25	Grand Total
Airborne contaminants	5	1		3		1	10
General Work Health and Safety Notice				1			1
Hazardous chemicals	1	1					2
Section 19 - Primary Duty of Care				1			1
Silica dust	1			4	1	3	9
Grand Total	7	2	0	9	1	4	23

11. How many penalty notices have been issued in relation to tunnelling sites?
a. For each penalty notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

a.

Penalty Notices by Summary Type	22/23	23/24	Grand Total
Not provide adequate protection against risk of falling object - Corporation	1	1	2
Not have electrical equipment regularly inspected and tested - Corporation	1		1
Grand Total	2	1	3

12. How many penalty notices have been issued in relation to engineered stone?
a. For each penalty notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

a.

Penalty/Penalty short title	19/20	20/21	21/22	22/23	23/24	24/25	Grand Total
Allow etc high risk worker not view evidence of licence - Corporation	1					2	3
Direct/allow worker to cut stone contains crystalline silica not as prescribed - Corporation		1		3	2		6

Direct/allow worker to cut stone contains crystalline silica not as prescribed - Individual				1			1
Not comply with improvement notice within period specified - Corporation				5	5	1	11
Not have electrical equipment regularly inspected and tested - Corporation				1	2		3
Worker not wear personal protective equipment as required - Individual					1		1
Grand Total	1	1	0	10	10	3	25

13. How many other SafeWork issued notices have been issued in relation to tunnelling sites?
a. For each notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

All other Notices by Summary Type	19/20	20/21	21/22	22/23	23/24	24/25	Grand Total
Notice to obtain Information/Documents/Evidence		6	4	9	24	13	56
Notice to Produce Documents	8	5	2	5	13	7	40
Non Disturbance Notice		1		1	1		3
Notice of Suspension or Cancellation of High Risk Work Licence					2	1	3
Receipt for Seized Things				1			1
Notice of Immediate Suspension of High Risk Work Licence					1		1
Grand Total	8	12	6	16	41	21	104

14. How many other SafeWork issued notices have been issued in relation to engineered stone?
a. For each notice, what was the nature of the offence?

SafeWork NSW

ANSWER:

Notice Type	FY19/20	FY20/21	FY21/22	FY22/23	FY23/24	FY24/25	Grand Total
S155	14	37	36	5	18	11	121
S163A		3	2	5		5	13
S171		4	9	1	5	9	26
S178			1				1

S198			1				1
S59B						6	6
Grand Total	14	40	49	11	23	31	168

15. How many enforceable undertakings have been accepted by SafeWork NSW in relation to tunnelling sites?

SafeWork NSW

ANSWER:

Nil.

16. How many enforceable undertakings have been accepted by SafeWork NSW in relation to engineered stone?

SafeWork NSW

ANSWER:

Nil.

17. How many compliance activities has SafeWork NSW undertaken in relation to breaches of consultation requirements for workplace safety measures?
a. How many in relation to tunnelling sites?
b. How many in relation to engineered stone?

SafeWork NSW

ANSWER:

SafeWork NSW undertakes verification activities in relation to consultation arrangements as a standard part of every workplace visit. Noting this, for the purposes of responding to this question, SafeWork NSW has interpreted compliance activities to mean Improvement Notices issued by SafeWork NSW Inspectors to ensure compliance with consultation provisions under work health and safety (WHS) laws.

a.

Financial Year	Improvement Notices Issued
2019/2020	0
2020/2021	0
2021/2022	0
2022/2023	1
2023/2024	0
2024/2025	0
Grand Total	1

b.

Financial Year	Improvement Notices Issued
2019/2020	6
2020/2021	5

	2021/2022	5		
	2022/2023	3		
	2023/2024	0		
	2024/2025	0		
	Grand Total	19		
18. How many times has SafeWork undertaken compliance action regarding Sections 49, 50 and 529CE of the WHS Regulation 2017?			SafeWork NSW	
a. In relation to engineered stone? b. In relation to tunnelling sites?				
ANSWER:				
SafeWork NSW has not undertaken compliance action regarding sections 49, 50 or 529CE of the WHS Regulation in relation to engineered stone or tunnelling sites.				
19. Has SafeWork ever undertaken their own independent air quality testing in a tunnelling site?			SafeWork NSW	
a. If yes, when and what were the results?				
ANSWER:				
SafeWork NSW has undertaken air quality testing during inspections at active tunnelling sites on seven occasions to ensure the health and safety of its Inspectors. This occurred on the following dates:				
<ul style="list-style-type: none"> • 5/9/2018 • 12/09/2018 • 25/10/2018 • 5/08/2020 • 30/09/2020 • 28/10/2020 • 4/12/2020 				
Each occasion returned a reading below the WES, taking into consideration the period of exposure and respiratory protective equipment worn, or did not detect RCS.				
20. Witnesses described a meeting with the former Minister Matt Kean, where concerns about dust levels in the NorthConnex project were raised. Please provide specific details of SafeWork's response to those concerns, and the subsequent actions taken.			SafeWork NSW	
ANSWER:				
SafeWork NSW has undertaken searches of historical diary and calendar records and has been unable to identify the specific meeting referred to in witness testimony.				

SafeWork NSW has identified the following using data filters and keyword searches in relation to compliance activities carried out at the NorthConnex project from 2015-2020.

Activity type	Number
Proactive Compliance	74
Internal/External Advice (incl. presentations and meetings)	77
Requests for Service	32
Incidents notified to SafeWork NSW	42
Incidents received Inspector response	26
Improvement Notices	31 (2 related to silica)
Prohibition Notices	10 (nil related to silica)

Due to the age of the data and the limitations of the SafeWork NSW WSMS system, it is noted that the data may not represent a complete and comprehensive record of all SafeWork NSW regulatory and compliance activities in connection with NorthConnex.

SafeWork NSW welcomes the opportunity to meet with Union representatives to discuss any actions required to address concerns raised in connection with the meeting described or any other issued raised in witness testimony.

21. Can you elaborate on SafeWork's role in facilitating the resolution of right-of-entry disputes and the limitations of their authority in enforcing the production of documents?

SafeWork NSW

ANSWER:

If a work health and safety WHS dispute, including a dispute regarding right-of-entry, is unable to be resolved after reasonable efforts have been made by parties to the dispute to achieve an effective resolution, any party to the dispute may ask SafeWork NSW to appoint an inspector to attend the workplace to assist in resolving the issue.

While the *Work Health and Safety Act 2011* (WHS Act) and the *Work Health and Safety Regulation 2017* (WHS Regulation) do not empower an Inspector engaged in dispute resolution to compel a person conducting a business or undertaking (PCBU) to produce documents to an Entry Permit Holder (EPH), SafeWork NSW Inspectors engaged in dispute resolution can, where required, exercise compliance powers to monitor and enforce the WHS Act and Regulation. This may include issuing a section

<p>155 notice to compel a PCBU to produce documents or information to SafeWork NSW.</p> <p>The SafeWork NSW Guide to workplace right of entry by work health and safety entry permit holders guidance document provides further information in relation to the role and function of EPHs and the role of SafeWork NSW in relation to facilitating the resolution of disputes.</p>	
<p>22. Witnesses describe a lack of clarity regarding air quality requirements. What is SafeWork doing to make these requirements clearer and more consistently enforced?</p>	<p>SafeWork NSW</p>
<p>ANSWER:</p> <p>SafeWork NSW is committed to improving compliance with new legislative requirements for silica and building the capability of industry, including in relation to air quality monitoring, through proactive compliance activities, education and awareness programs and guidance material. SafeWork NSW has a dedicated silica compliance team that collaborates across SafeWork NSW to drive consistency and compliance. SafeWork NSW is also working with the Building Commission NSW and TAFE NSW to improve the silica awareness and safety course and will be translating the course into multiple languages. In addition, four short videos have been produced and are being translated to support education and awareness of silica obligations broadly.</p>	
<p>23. How can SafeWork improve its reporting to provide greater transparency and accountability regarding its efforts to prevent dust diseases?</p>	<p>SafeWork NSW</p>
<p>ANSWER:</p> <p>SafeWork NSW maintains an online Silica Dashboard (the Dashboard) to share information in connection with compliance activity and other work being done to help minimise and eliminate the risk of silica across NSW. SafeWork NSW is also required to report to the Minister on an annual basis in relation to matters identified in section 271D of the WHS Act. SafeWork NSW complies with this obligation through the production of the NSW Dust Disease Register Annual Report. The financial year 2023/24 Report was tabled in the NSW Parliament on 25 November 2024.</p> <p>SafeWork NSW is committed to continuous improvement and takes seriously concerns raised by the Committee and witnesses regarding transparency and accountability, in particular, with respect to the availability of data related to RCS. In recognition of the valuable commentary of the Committee and witness testimony, SafeWork NSW is reviewing the operation and availability of information in the Dashboard.</p>	

<p>With respect to the operation of section 271 of the WHS Act, SafeWork NSW is also broadly considering opportunities for improved transparency and the proactive release of relevant information within the current legislative framework.</p>	
<p>24. The committee has heard evidence that certain types of tunnelling machines and methods create a higher risk of silica exposure than other methods. Does SafeWork have a risk framework in relation to tunnelling projects that is informed by the chosen tunnelling method? Or is the regulatory approach uniform across all tunnelling types?</p>	<p>SafeWork NSW</p>
<p>ANSWER:</p> <p>SafeWork NSW takes a risk-based approach to compliance and recognises the need to consider the operational justification for choice of plant and methodology when determining what controls are reasonable and practicable.</p> <p>When undertaking inspections, SafeWork NSW Inspectors liaise with PCBUs to consider the choice of plant and controls and their suitability for the work and conditions relevant to the operation of the individual tunnel.</p>	
<p>25. You mentioned SafeWork's restrictions in releasing information obtained under notices through GIPA requests. Can you elaborate on the specific legal provisions and how they impact transparency and worker access to information?</p>	<p>SafeWork NSW</p>
<p>ANSWER:</p> <p>SafeWork NSW is committed to promoting open, accountable, fair and effective government and decides each application for information received under the <i>Government Information (Public Access) Act 2009</i> (GIPA Act) in accordance with the provisions of the Act. Access to information is restricted only where there is an overriding public interest against disclosure.</p> <p>When considering information for release under the GIPA Act, SafeWork NSW applies the public interest test which involves the balancing of public interest considerations for and against disclosure of information. This may include balancing the promotion of transparency against the need to protect the investigative functions of SafeWork NSW and its ability to obtain confidential information that facilitates the effective exercise of its functions.</p> <p>Clause 6(1) of the Table to section 14 of the GIPA Act identifies a public interest consideration against disclosure, where disclosure of the information could reasonably be expected to constitute a contravention of a provision of any other Act, whether or not the prohibition is subject to specified qualifications or exceptions.</p> <p>Section 271 of the WHS Act creates a prohibition against the disclosure of information obtained by SafeWork NSW while exercising its powers or functions under the WHS Act, other than in certain circumstances, including where a person has provided consent. Disclosure of information obtained under notice without</p>	

<p>consent could therefore be reasonably expected to constitute a contravention of section 271 of the WHS Act.</p> <p>The findings of the NSW Civil and Administrative Tribunal in <i>Fraser v SafeWork NSW (No 2)</i> [2021] NSWCATAD 79 reinforce SafeWork NSW's position with respect to the interaction between the GIPA Act and section 271 of the WHS Act.</p>	
<p>26. Please provide a detailed breakdown on progress and timelines for the reform program and recommendations arising from both the Auditor General's reports into SafeWork, and the McDougall review.</p>	<p>SafeWork NSW</p>
<p>ANSWER:</p> <p>SafeWork NSW is undergoing significant reform in response to recommendations arising out of the Independent Review of SafeWork NSW carried out by the Hon Robert McDougall KC (McDougall Review) and Audit Office of NSW performance report into the "<i>Effectiveness of SafeWork NSW in exercising its compliance functions</i>" (Audit Report). Part of this reform program includes implementation of a revised and scalable organisational structure in November 2024 that significantly contributes to progress against recommendations of the McDougall Review and Audit Report by ensuring resources are dedicated towards key priorities.</p> <p>The Audit Report made 10 recommendations to improve the approach of SafeWork NSW to ensuring worker health and safety in NSW. SafeWork NSW has progressed these recommendation in the context of its broader reform program.</p> <p>To date, three recommendations have been closed, and four are completed pending internal approvals for closure. These include reporting and publishing performance against regulatory priorities, consolidation of triage functions, and overall improvement of the agency's complaints handling processes.</p> <p>Of the remaining recommendations still in progress, two are expected to be delivered early in 2025, with the final outstanding recommendation, being the WSMS system modernisation, anticipated for delivery in June 2025.</p> <p>The McDougall Review made 46 recommendations and SafeWork NSW has implemented 11 of these to date including publishing performance against regulatory priorities, improving the complaints handling processes (systems, tools and processes), consolidating triage functions, and improvements to the Independent Decision Making Panel (IDMP) and processes including the appointment of a legal practitioner.</p> <p>A further 22 recommendations are in progress and include improvement to internal practices, capability uplift, reviewing IDMP and triage processes and documentation, and further strengthening relationships with key representative groups, including Family and Injured Workers Support and Advisory Group, health and safety representatives and Unions.</p> <p>The revised structure implemented in November 2024 lays the foundation to transition SafeWork NSW to an independent standalone regulator in 2025 and enables improved capability and practice to address concerns raised in the McDougall Review.</p>	

See Attachment 1	
27. Does SafeWork have the required resources, both trained and experienced personal and budget capacity, to properly undertake inspections and investigations into respirable crystalline silica levels in NSW tunnelling projects?	SafeWork NSW
<p>ANSWER:</p> <p>SafeWork NSW has a Manager, Team Coordinator and up to 7 Inspector roles in a dedicated team focused on major infrastructure projects over \$100m and the new and emerging renewable energy sector. These Inspectors are skilled and experienced in major infrastructure work, including tunnelling, and are supported by a small team of Hygiene and Toxicologist specialists.</p>	
28. How many inspectors are dedicated solely to ‘police’ tunnelling projects in NSW?	SafeWork NSW
<p>ANSWER:</p> <p>See response to question 27.</p>	
29. Further to questions asked as recorded on the transcript pages 54 & 55, what is the current status of investigations being undertaken or completed in relation to the high exposure rates of respirable crystalline silica in tunnelling projects, as evidenced by documents provided by Transport NSW under GIPAA to the Australian Workers Union?	SafeWork NSW
<p>ANSWER:</p> <p>SafeWork NSW inquiries into this matter are ongoing. As part of its inquiries, a notice under section 155 is being issued to Transport for NSW/Sydney Metro to obtain additional information about the exceedances identified in the information provided by Transport for NSW in response to Australian Workers Union application under the GIPA Act.</p> <p>A desktop audit will also be undertaken to identify corrective actions implemented for each of the WES exceedance where there was still an exceedance after taking into account the protection factor provided by the respiratory protective equipment being used by the worker. The audit will also focus on obtaining verification by duty holders that appropriate corrective actions were properly implemented. This may result in further compliance action being undertaken by SafeWork NSW.</p>	

SafeWork NSW Reform Progress



SafeWork NSW is progressing through a period of reform in response to the McDougall and Audit Office reviews. This includes implementation in November 2024 of a revised and scalable organisational structure that better aligns resources to regulatory priorities and improves governance and accountability.

The revised SafeWork NSW organisational structure significantly contributes to progress against the McDougall and Audit Office recommendations by ensuring resources are dedicated towards priorities and includes:

- Increased inspector roles (by 48) and realigned regional teams to address all harms in all geographical locations
- New operational intelligence and operational assurance functions
- Improved capacity to address new and emerging harms through alignment of teams for specialist harms
- Dedicated focus on high-risk workplaces and repeat offenders
- Prioritised engagement with industry, unions, health and safety representatives, and those with lived experience.

Audit Office Recommendations

The Audit Office report, titled “Effectiveness of SafeWork NSW in exercising its compliance functions” made 10 recommendations to improve SafeWork’s approach to ensuring worker health and safety in NSW. SafeWork NSW has progressed these recommendation in the context of a broader reform program.

Three recommendations have been closed, and four are completed pending internal approvals for closure. These include

- delivery of a 5-year Strategic plan and Annual Regulatory statement,
- publishing performance against the 2023 regulatory priorities,
- development of an accountability framework aligned to consistent business planning,
- improved data governance including assignment of the data custodian for WSMS data,
- renewed risk management framework, and
- Comprehensive review of existing policies, procedures and practices

Of the remaining three recommendations still in progress:

- The procurement of the research partner for the silica detection device is being progressed in consultation with the Office of the Chief Scientist and Engineer. This will be finalised in 2025
- An independent audit of procurement processes is in progress with the report expected early 2025
- System modernisation (WSMS) program has commenced is expected to complete a business case by June 2025.

McDougall Recommendations

The Independent Review of SafeWork NSW by the Hon Robert McDougall KC made 46 recommendations. Progress to address these recommendations is as follows:

- 11 recommendations have been addressed including, publishing performance against regulatory priorities, improving the complaints handling processes (systems, tools and processes), consolidating triage functions, and improvements to the Independent Decision Making Panel (IDMP) including the appointment of a legal practitioner,
- Progress on a further 22 recommendations include improved practices, capability uplift for employees and managers, reviewing IDMP and Triage processes and related documentation,
- Commenced the process to transition SafeWork NSW to a standalone regulator with governance arrangements before the government for consideration,
- Delivery of agency-wide leadership training for managers, and
- Further strengthening relationships with key representative groups, including those with lived experience, health and safety representatives and unions.