



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEES

## **BUDGET ESTIMATES 2020-2021 Supplementary Questions**

**Portfolio Committee No. 6 – Transport and Customer Service**

**BETTER REGULATION AND INNOVATION**

Hearing: Wednesday 27 October 2021

**Answers due by: 24 November 2021**

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## BETTER REGULATION AND INNOVATION

<b>Questions from the Hon Mark Buttigieg MLC (on behalf of the Opposition)</b>
<b>McDougall Review</b>
<p>1. The Minister was asked during Budget Estimates on 27 October, if a public review of SafeWork's performance as per the recommendation of the McDougall Review will be conducted. Minister, you stated that you did not know when your department will comply with this recommendation. Now that a week has gone by, do you know when this review will be conducted?</p> <p>(a) Do you know if this review will be made publicly available, as per the recommendation?</p> <p>2. Why was this recommendation not considered by you or by your department before?</p>
<b>ANSWER:</b>
<p>1-2 The recommendation was considered and noted.</p>
<b>Silicosis</b>
<p>3. The Minister was asked during Budget Estimates on 27 October, what steps you have taken to investigate whether or not the limit of 0.02 mg/m<sup>3</sup> of silica dust in workplaces, to which you answered that 0.02 is very difficult. Now that a week has gone by, what further investigations have been conducted for technology and/or mechanisms to achieve 0.02 mg/m<sup>3</sup>?</p> <p>4. If there is no improvement in regulatory compliance and evidence does not show that preventative measures are keeping workers safe, will the government comply with NDDT recommendation 1d?</p> <p>(a) What has the NSW government done with the Commonwealth government to implement all recommendations of the NDDT?</p> <p>(b) If the Commonwealth is not acting, will the NSW government act in the meantime on other recommendations, such as recommendations 4 and 5 that urge greater support for diagnosed workers, their families, and their health/medical practitioners?</p> <p>5. How many sites have now received the manufactured stone rebate?</p> <p>(a) What has the government done to boost uptake of the rebate?</p> <p>6. What has the government done to monitor dust levels in their own tunnels?</p> <p>(a) Why won't the government just commit to implementing the best available safety standards in their own projects?</p> <p>7. Is the government concerned that not only are workers at risk of silicosis but entire communities could be at risk of silicosis?</p> <p>(a) What has the government done to keep communities safe from silica dust exposure</p>

8. What has the government done to protect auxiliary and support staff at worksites with high concentrations of silica dust?
9. How many workers compensation claims were made to icare's Dust Diseases Care scheme for silicosis (or silica related diseases) in the following financial years, disaggregated by Local Government Area:
- (a) 2018/19
  - (b) 2019/20
  - (c) 2020/21
  - (d) 2021/22 to date?
10. How many workers compensation claims were made to icare's Dust Diseases Care scheme for silicosis (or silica related diseases) in the following financial years, disaggregated by industry (i.e. Manufactured stone industry, tunnelling etc.):
- (a) 2018/19
  - (b) 2019/20
  - (c) 2020/21
  - (d) 2021/22 to date?
11. How many deaths have been recorded following a silicosis (or silica related diseases) diagnosis in the following financial years:
- (a) 2018/19
  - (b) 2019/20
  - (c) 2020/21
  - (d) 2021/22 to date?

## **ANSWER**

3. The Workplace Exposure Standard for silica is a national standard. Safe Work Australia is undertaking further investigations as to whether measuring 0.02 is achievable within industry.
4. The Federal Minister for Health and the Federal Minister for Industrial Relations will jointly coordinate a whole-of-government response to the National Dust Disease Taskforce Final Report. NSW will contribute to the whole-of-government response.
- a) NSW will contribute to the whole-of-government response mentioned in the answer to question 4. NSW continues to participate at a national level through national forums on progressing regulatory reform and activities to reduce silica exposure.
  - b) SafeWork NSW has a comprehensive five-year strategy targeting reducing exposure to harmful silica dust that focuses on awareness, education, compliance and research. NSW

continues to advocate and cooperate on nationally coordinated efforts that target this issue, including contributing to a whole of government response to the National Dust Disease Taskforce Final Report being jointly co-ordinated by Federal Minister for Health and the Federal Minister for Industrial Relations. For specific information regarding recommendations around support for diagnosed workers, their families, and their health/medical practitioners refer to the Minister for Customer Service (State Insurance Regulatory Authority) and NSW Treasurer (icare – Dust Disease Care Scheme).

5. The manufactured stone industry rebate was available from January 2020 to June 2020. During this time, 81 rebates of \$1,000 were distributed. Businesses continue to have access to the Small Business Rebate of \$500 for eligible workplace health and safety solutions. As at 30 September 2021, 110 small business rebates have been distributed for safety solutions that prevent silica dust exposure in the period October 2018-September 2021.

- a) Between January 2020 and June 2020, the manufactured stone industry rebate was heavily promoted to manufactured stone businesses during site visits, industry events and email and phone calls to businesses. The Small Business Rebate is promoted regularly by SafeWork NSW directly to industry, during inspector visits and presentations and through virtual workshops and events.

6 & 6(a) This question should be referred to the Minister for Transport and Roads.

7 & 7(a) This question should be referred to the Minister for Transport and Roads and the Minister for Energy and Environment.

8. Auxiliary and support staff are covered by work health and safety regulations. SafeWork NSW inspectors issue notices for compliance issues regarding harmful exposure to silica dust. SafeWork NSW delivers awareness campaigns, resources and industry events to raise awareness of the issue of silica dust exposure and educate workplaces on best practice safety measures to reduce workplace exposure to silica dust.

9-11. These questions should be referred to iCare.

### **Workplace COVID Ventilation**

12. What schemes are in place for workers to report inadequate ventilation in workplaces?

13. How many SafeWork NSW inspectors have been utilised to inspect ventilation conditions at construction tunnelling sites?

- (a) At other places of work in the construction sector?

14. What funding will be made available for businesses that only use HVAC air recirculation systems?

15. How many ventilation related incidents have been reported in workplaces?

16. How many inspections have been performed at workplaces in monitoring COVID-safe ventilation?

17. What measures has the Government implemented to prevent teachers and school staff from contracting COVID-19 as a result of inadequate ventilation?

18. How many SafeWork NSW inspectors have been utilised to inspect ventilation conditions at NSW schools?
- (a) How many schools were deemed to have inadequate ventilation?
- i. How many of these schools were in the public system?
- ii. How many of these schools were in the private system?

**ANSWER:**

12. When a worker has a safety concern in the workplace, including concerns around ventilation, they have a number of options available to report these concerns. Initially, the concern should be raised with the person conducting a business or undertaking, including:
- reporting the issue verbally to their supervisor or manager
  - reporting the issue through the workplace's hazard reporting procedures
  - raising the issue with the health and safety representative
  - raising the issue with management through the union representative.

If these actions are not appropriate or successful, the worker can contact SafeWork NSW for assistance on 13 10 50 or by email to [contact@safework.nsw.gov.au](mailto:contact@safework.nsw.gov.au). The worker can also report unsafe work online using Speak Up.

13. The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.
14. The small business rebate program currently does not support heating or air conditioning systems as they are predominantly used to provide “comfort” conditions and they add value to commercial premises that may or may not be owned by a business. The program does support ventilation systems but applicants for the rebate program must demonstrate an improvement in the air quality of enclosed workspaces, not just a cooling system.
15. The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.
16. The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.
17. This question should be referred to the Minister for Education.
18. The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.

**COVID exposure in the Workplace**

19. How is SafeWork regulating COVID safe work practices for workers that travel, such as tradies?
  - (a) How is SafeWork enforcing COVID safe WHS for travelling workers who travel from Sydney to the regions?
20. What resources has Safework NSW deployed to specifically address the risks of COVID-19 in workplaces?
21. How many inspectors have been tasked with ensuring that workplaces are meeting their WHS duties in relation to COVID-19?
22. The AMWU found in a survey found that 48 per cent of essential workers surveyed believed they were being put at risk of contracting COVID in their workplace. And only 55 per cent said their employers has put in place extra cleaning. How many workplace inspections did Safework conduct last financial year to ensure employers are consulting with workers in minimising the risk of COVID in workplaces?
23. How many notifications has Safework NSW received from businesses reporting a worker diagnosed with COVID-19 or of a case of COVID-19 being contracted on a workplace? How did Safework NSW follow these reports?
  - (a) Did it investigate them?
  - (b) In how many of these instances did a Safework inspector conduct a physical inspection of a workplace?
24. Has Safework NSW conducted an audit of the number of workplaces meeting their WHS duties in relation to COVID-19?

**ANSWER:**

19. SafeWork NSW has undertaken a range of compliance activities in the field across NSW throughout the pandemic to audit businesses in relation to meeting their duties under the *Work Health and Safety Act 2011 (NSW)* and the Public Health Orders related to COVID-19. These include proactive COVID specific verification activities as well as considering COVID in all business-as-usual field work.
  - a) Regulation and enforcement of the *Work Health and Safety Act 2011 (NSW)* and the Public Health Orders apply across NSW, regardless of workplace location.
20. A range of resources for all workers and businesses are available at [www.safework.nsw.gov.au/resource-library/COVID-19-Coronavirus](http://www.safework.nsw.gov.au/resource-library/COVID-19-Coronavirus) and [www.nsw.gov.au/covid-19](http://www.nsw.gov.au/covid-19). SafeWork NSW has also worked closely with other jurisdictions and Safe Work Australia to develop comprehensive guidance for businesses which is available at [www.safeworkaustralia.gov.au/covid-19-information-workplaces](http://www.safeworkaustralia.gov.au/covid-19-information-workplaces).
21. All SafeWork NSW inspectors have authorities under the *Work Health and Safety Act 2011 (NSW)* to undertake activities related to any risks, including COVID-19.
22. The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.

23.

<b>Triage Status</b>	<b>Workplace incidents (COVID confirmed case and exposure<sup>1</sup>) from 1 January 2021 to 29 October 2021</b>
Admin Response	2,104
Inspector Response	48
No Action Required	30
<b>Total</b>	<b>2,182</b>

<sup>1</sup> Based on information recorded in incident description and description of injury/illness fields

(a-b) All matters received by SafeWork NSW are triaged for action and response in line with SafeWork NSW protocols.

24. SafeWork NSW has undertaken a range of compliance activities in the field across NSW throughout the pandemic to audit businesses in relation to meeting their duties under the *Work Health and Safety Act 2011 (NSW)* and the Public Health Orders related to COVID-19.

#### **COVID Safety Inspections**

25. During Budget Estimates on 27 October, you were asked of the current status of the 40 new SafeWork NSW inspectors, who required \$6.4Million in funding. Now that a week has passed, how many of these 40 new inspectors are now fully trained?

(a) How long does their training last?

i. When can these inspectors be expected to be fully trained and performing work site safety checks?

(b) How many of these inspectors will specifically be deployed as COVID safety inspectors?

26. From July – October 2021, how many proactive and reactive visits were made by SafeWork inspectors?

(a) How many improvement notices have been issued?

(b) How many penalty notices have been issued?

27. How many workplace incidents have occurred since the additional funding was allocated?

28. How much additional funding will be allocated to informative resources on work sites?

29. How much additional funding will be allocated to adequate training for workers on hazardous work sites?



30. How many workers have made complaints to SafeWork about employers exposing them to COVID at work?
- (a) How many inspectors have visited workplaces in response to workers complaining of COVID unsafe workspaces?

**ANSWER**

25. Once recruitment is completed and new inspectors commence employment, they will start the New Inspector Training Program (NITP). There will be multiple cohorts with varying start dates from 31 January 2022 through to 6 June 2022.
- a) The NITP is a 12-month comprehensive training program which prepares new Inspectors to perform the duties required of an Inspector within SafeWork NSW as well as providing training and assessment required for the PSP50116 Diploma of Government (Workplace Inspection) qualification.
- i. Inspectors will be fully trained after 12 months. They will be issued with their instrument of appointment (authorities) between 29 April 2022 and 23 September 2022, depending on which training cohort they are in.
- b) To be deployed as a COVID-19 safety inspector who is authorised under the *Public Health Act 2010*, an inspector must first hold an authority under the *Work Health and Safety Act 2011* (WHS Act). The number of new starters to be deployed as COVID safety inspectors will be determined by the status of the pandemic at the time when they become authorised inspectors under the WHS Act.
26. SafeWork NSW completed 7,305 proactive COVIDSafe compliance and education visits from 1 July 2021 to 31 October 2021.
- a) Inspectors are authorised under the *Public Health Act 2010* to conduct COVIDSafe Education and Compliance inspections. Improvement notices are not issued under this authorisation.
- b) SafeWork NSW has issued six penalty notices under the *Public Health Act 2010* during the period 1 July 2021 to 31 October 2021.
27. SafeWork NSW has received 4,663 workplace incident notifications between 23 June 2021 and 4 November 2021.
28. The increase in funding to SafeWork NSW was provided to increase the number of inspectors to assist in the work of reducing workplace injuries and fatalities. Inspectors play both an educative role, helping businesses to implement the right safety measures, as well as enforcing compliance with the legislation and issuing fines and penalties where safety is at risk in line with the national triage model.
29. Refer to answer for Question 28.
30. SafeWork NSW received 3,337 requests for service (excluding statutory and advisory requests) related to COVID-19 between 1 January 2020 and 29 October 2021. The role type of the requestor, such as whether they are a worker, is not reported.

a) This information is not captured by SafeWork NSW's reporting.

### **COVID Breaches**

31. How many workplaces have been issued improvement notices for COVID related breaches of WHS laws?
32. How many workplaces have been issued prohibition notices for COVID related breaches of WHS laws?
33. How many workplaces have been issued with penalty notices for COVID related WHS laws?

### **ANSWER:**

31. 106 between 1 January 2020 and 29 October 2021.
32. Three between 1 January 2020 and 29 October 2021.
33. Nil between 1 January 2020 and 29 October 2021.

### **CALD Workers**

34. What targeted media campaigns were utilised to support workers in CALD communities and provide them with accurate COVID-19 information?
35. What targeted media campaigns were utilised to encourage CALD workers to get the COVID vaccination?
36. What digitally inclusive initiatives were implemented to ensure workers of the CALD community received accessible COVID-19 information?
37. What digitally inclusive initiatives were implemented to ensure workers of the CALD community received accurate COVID-19 vaccination information?
38. What initiatives or campaigns were implemented to target vaccine hesitancy in the CALD community?
39. What multicultural resources were made available to CALD workers that were unable to have the vaccination?
40. How much was spent on implementing multicultural digital COVID-19 resources for CALD communities?
41. WorkSafe Victoria has translated COVID materials in 19 languages, why did SafeWork NSW only have 8 languages?
42. How many interpreters were used for the translation of COVID information for CALD workers on the NSW Government website?

### **ANSWER:**

34. Department of Customer Service has executed advertising campaigns since April 2020 that include awareness of covid-safe behaviours, information on restrictions and outbreaks, and

vaccination. These campaigns have included advertisements that target CALD communities across multiple channels which include television, print, radio, social/digital and outdoor. Advertisements have been translated in 19 languages.

35. DCS has conducted continuous COVID-19 vaccine advertising since May 2021 to inform the community of vaccinations. The vaccination campaign has included advertisements that target CALD communities across multiple channels which include television, print, radio, social/digital and outdoor. Advertisements have been translated in 19 languages.
36. The advertising campaign implemented by DCS has included non-digital channels to ensure information is accessible via multiple channels, particularly print and radio. DCS has also worked with other government departments to provide information in additional formats and channels to reach CALD communities. This has included posters, flyers, information sessions/webinars, community leader videos, toolkits, emails and weekly briefings to multicultural media organisations. DCS worked with Multicultural NSW to provide live-interpreting of the NSW Government's daily 11am press conference from July to mid-October via SBS. Live-interpreting became available in 10 languages to ensure CALD communities received updates as they were announced.
37. The advertising campaign implemented by DCS has included non-digital channels to ensure information is accessible via multiple channels, particularly print and radio. DCS has worked with various government departments to provide information in additional formats and channels to reach CALD communities. This has included posters, flyers, information sessions/webinars, community leader videos, toolkits, emails and weekly briefings to multicultural media.
38. The NSW Government's vaccine advertising campaign addressed key motivations and barriers to get vaccinated. DCS worked with various government departments to provide information sheets, hold information sessions/webinars and meetings with community leaders/representatives as well as weekly briefings to multicultural media organisations to provide accurate information to the community that could address hesitancy.
39. Translated vaccine advertisements advised people to speak to their General Practitioner, pharmacist or to call the Translating and Interpreting Service to connect them to the COVID-19 vaccine helpline, for more information on vaccinations.
40. DCS spend on media, production and translation targeting CALD communities and business owners was \$7.1M over the period April 2020 to November 2021. This represented 22% of the overall advertising expenditure for that period which exceeds the Government policy of 7.5% allocated to CALD and Aboriginal communications. This investment included TV, radio, print, social, digital and outdoor as well as non-advertising assets such as posters, factsheets, and flyers. Translated resources for CALD communities and business owners have been made available via [nsw.gov.au](http://nsw.gov.au) and [health.nsw.gov.au](http://health.nsw.gov.au) websites.
41. Due to the higher level of English proficiency among CALD business owners in NSW, the campaign media strategy recommendation was to focus on the top 6 languages that had a lower proficiency for in-language communication, which were Cantonese, Mandarin, Arabic, Korean, Vietnamese and Thai. During the campaign, Assyrian, Khmer and Greek languages were also included as they were the top languages spoken within Local Government Areas of Concern, even though English proficiency among these cultures is high.

42. DCS engages agencies that use NAATI accredited translators to translate COVID information. The translated resources are made available on the nsw.gov.au website.

### **Workplace Harassment and Bullying**

43. What has been the trend for psychological hazards at work over the COVID-19 pandemic, have psychological hazards increased during the pandemic?

(a) What is the government doing to address and support workers in regards to psychological hazards at work?

(b) Are there communities particularly susceptible to suffer from psychological hazards at work?

i. what is being done to support these communities?

44. What is being done to address this significant rise in retail worker abuse?

45. What resources is the government providing to business on how to deal with abusive customers and how to enforce vaccination requirements, QR check-ins and social distancing?

(a) Are these resources translated in different languages for multicultural businesses?

(b) How many languages are they translated into?

46. Will the government consider including provisions in the Public Health Orders and legislation that provide for harsher penalties for threatening, abusing, intimidating or assaulting retail employees?

47. What mental health resources and support are provided to workers who suffer abuse at work?

48. What mental health resources and support is being provided to workers?

(a) Are these resources translated in different languages for non-English speaking workers

(b) How many languages are they translated into?

### **ANSWER:**

43. During the COVID-19 pandemic, psychosocial hazards affecting psychological health at work include isolated work, increased job uncertainty, organisational change, high job demands, organisational injustice. These hazards are varied across industry based on the impact of COVID-19 and lockdown restrictions.

a) In May 2021, SafeWork NSW released the Code of Practice *Managing Psychosocial Hazards at Work* which gives all NSW workplaces practical guidance on managing risks to mental health at work. SafeWork NSW also provided free access to the People at Work psychosocial risk assessment tool to help NSW workplaces identify factors which contribute to psychological injury at work. To support the release of the Code and People at risk assessment tool, SafeWork NSW provided online information sessions to NSW businesses.

As part of the NSW Government's Mentally Healthy Workplaces Strategy a range of free programs are available for small to medium sized business to help businesses create a mentally health workplace. These programs include training for workers and managers, and direct practical coaching for small business.

- b) Industries more likely to be exposed to psychosocial hazards, and therefore at risk of psychological injury, include: Public administration and Safety, Education and Training, Healthcare and Social Assistance, Professional/Scientific/Technical Services, and Information/Media and Telecommunications.
  - i. The SafeWork NSW Work Health and Safety Roadmap has sector plans which target specific industries to prevent psychological injury. These include Government and Health Care and Social Assistance sector plans with specific programs of work to build industry capability to prevent psychological injury. The Government's Mentally Healthy Workplaces Strategy provides a range of resources and free programs to assist all workplaces and the SafeWork Code of Practice *Managing Psychosocial Hazards at Work* gives all NSW workplaces practical guidance on managing risks to mental health at work.

44. Refer to the response to question 43. The Code of Practice *Managing Psychosocial Hazards at Work* covers all workplaces in NSW and addresses customer violence towards workers. SafeWork NSW contributed to and supports the icare Respect & Resilience program which relates to customer behaviour in retail. SafeWork NSW has revised website content for violence at work. Specific advice to manage violence related to Covid-19 is available on the NSW government <https://www.nsw.gov.au/covid-19/business/covid-safe-business/keeping-workers-safe/managing-violence>

45. Refer to the SafeWork NSW responses to questions 43 and 44.

The component of the question concerning how to enforce vaccination requirements and social distancing should be referred to the Minister for Health while the component on QR check-ins should be referred to the Minister for Customer Service.

a) No

b) See response to 45(a).

46. This question should be referred to the Minister for Health.

47. Abuse is a form of violence. The SafeWork NSW Code of Practice *Managing Psychosocial Hazards at Work* deals with customer violence. Incidents of workplace violence can be reported to SafeWork NSW for response. The Government's Mentally Healthy Workplaces Strategy provides a range of education and programs to create a mentally healthy workplace and prevent the likelihood of workplace violence.

48. The Government's Mentally Healthy Workplaces Strategy offers free programs that include training for workers and managers to manage mental health at work and support others. The [www.nsw.gov.au/mental-health-at-work](http://www.nsw.gov.au/mental-health-at-work) website provides information and guidance to help all workplaces improve mental health at work.

- a) No. However, a diversity and inclusion project will translate key resources and communications into Mandarin in 2022 (the main language other than English spoken in NSW).
- b) See response to 48(a).

### **Worker Fatigue**

- 49. What is the government doing to protect workers from suffering from fatigue and burnout?
- 50. Reports show that 70% of frontline health workers reported emotional exhaustion from working during the current pandemic, given that the next few months are likely to be the busiest for our hospitals – Is the government concerned that front line health workers will burnout out, possibly leading to a shortage in health staff?
  - (a) What is being done to prevent health workers from suffering from fatigue and burnout?

### **ANSWER:**

- 49. In May 2021, SafeWork NSW released the Code of Practice *Managing Psychosocial Hazards at Work* which gives all NSW workplaces practical guidance on managing risks to mental health at work, understanding psychosocial hazards and how to manage these and help prevent burnout and fatigue. Additional information is available on the SafeWork NSW website.
- 50. This question should be referred to the Minister for Health.

### **WHS Case Studies – SafeWork NSW**

<https://www.safework.nsw.gov.au/compliance-and-prosecutions/incident-information-releases/industries/all-industries>

- 51. A 19-year-old labour hire worker suffered serious injuries after falling more than 12 metres through an open penetration at a Shellharbour construction site. The worker was drilling holes into wall panels in the lift shaft on Level 2 when he fell through the open penetration to the concrete lower ground floor. Do labour hire companies have the same responsibility as other employers for the health, safety and wellbeing of people that are hired under them?
  - (a) How many incidents over the last 5 years have involved workers from labour hire companies?
  - (b) Does SafeWork have additional guidelines when dealing with sub-contracted workers such as those from labour hire workers?
  - (c) When was this incident reported to SafeWork NSW?
    - i. How long did it take for inspectors to attend the site?
  - (d) How many similar incidents have been reported to SafeWork NSW in 2020?
- 52. A 19 year old worker was struck by a forklift whilst performing his work duties. The forklift was moving forward carrying a module of cages in front of the cabin when it struck the worker. The worker sustained fatal injuries as a result of the incident.

- (a) What WHS inspections had been performed on the site to ensure that barriers were in place at this workplace?
- (b) What SafeWork NSW information material was made available at the site?
  - i. What multicultural information resources were available?
- (c) When was this incident reported to SafeWork NSW?
  - i. How long did it take for inspectors to attend the site?
- (d) How many similar incidents have been reported to SafeWork NSW in 2020?

53. A 43-year-old male was operating a tracked dumper. While he was tracking down a set of ramps the tracked dumper tipped forward throwing him from the operator's platform. He suffered a neck fracture and serious head laceration. Did site conditions at this workplace allow for safe operating conditions of the plant?

- (a) What WHS inspections had been performed on the site to ensure that the conditions of the site were safe for operation?
- (b) What SafeWork NSW information material was made available at the site?
  - i. What multicultural information resources were available?
- (c) When was this incident reported to SafeWork NSW?
  - i. How long did it take for inspectors to attend the site?
- (d) How many similar incidents have been reported to SafeWork NSW in 2020?

54. A 32-year-old worker was injured when he fell approximately 5 metres through a void in the formwork of a bridge under construction near Gilgandra. The worker was walking along reinforcement bars and across the concrete bridge beams when he stepped onto a steel void panel which dislodged. Was the formwork on the site erected according to the planned design?

- (a) Was it secured from movement due to construction loads?
- (b) What WHS inspections had been performed on the site to ensure that the conditions of the formwork were safe for operation?
- (c) What SafeWork NSW information material was made available at the site?
  - i. What multicultural information resources were available?
- (d) When was this incident reported to SafeWork NSW?
  - i. How long did it take for inspectors to attend the site?
- (e) How many similar incidents have been reported to SafeWork NSW in 2020?

55. A 45-year-old worker was struck by a reversing track skid steer while surveying levels as part of a road construction in the Southern Highlands. The worker sustained significant crush injuries. What workplace specific induction was conducted for workers prior to work starting?
- (a) What SafeWork NSW information material was made available at the site?
    - i. What multicultural information resources were available?
  - (b) When was this incident reported to SafeWork NSW?
    - i. How long did it take for inspectors to attend the site?
  - (c) How many similar incidents have been reported to SafeWork NSW in 2020?
56. Minister, how many dangerous workplace incidents get unreported?
57. How does SafeWork ensure it is able to effectively relay information of worker rights, and important COVID-19 information to people from CALD backgrounds?
- (a) How many calls, email or other communication to SafeWork have come in a language other than English?
  - (b) How many call, emails or other communication to SafeWork have required using a third party interpreter or translator?
  - (c) How many of these calls and email have been:
    - i. Complaints
    - ii. General Inquires
    - iii. Reporting incidents
58. What is the rate of attendance for inspectors when a complaint or incident is reported?
- (a) How many reported incidences are not attended?
  - (b) What is the average time taken for inspectors to attend the site of an incident?

## ANSWERS

51. Yes, it is a shared duty.
- a) This information is not captured by SafeWork NSW's reporting.
  - b) SafeWork NSW developed a Labour Hire Toolkit containing advice and resources for labour hire workers, host employers and labour hire agencies. The Labour Hire Toolkit is available on the SafeWork NSW website.
  - c) The incident was reported to SafeWork NSW on 1 February 2021.
    - i. SafeWork NSW attended site on 1 February 2021.



- d) The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.

52.

- a) The incident site was not suitable for the use of physical barriers as a control. A chicken harvester machine was in use where workers herded the chickens onto conveyors at the front of the harvester. The forklift in use carried a pallet with chicken cages loaded on top. A system called 'SEEN' was in use where sensors on the forklift were used to detect workers wearing high visibility clothing. This system is only effective for line-of-sight use. SafeWork NSW inspectors reviewed the use of SEEN and have recommended the use of alternate electronic detection methods to detect workers wearing lanyards through barriers.
- b) SafeWork NSW is currently investigating the circumstances of the incident. In order not to prejudice the outcome of the investigation, no further information can be released at this point.
  - i. SafeWork NSW has a range of translated resources available via its website and access to an interpreter, if required.
- c) The incident was reported to SafeWork NSW on 16 August 2021.
  - i. SafeWork NSW attended site on 16 August 2021.
- d) SafeWork NSW is currently investigating the circumstances of the incident. In order not to prejudice the outcome of the investigation, no further information can be released at this point.

53. SafeWork NSW enquiries into the matter showed that the tracked dumper was operating beyond its safe operating specifications.

- a) SafeWork NSW enquiries showed that the Director of the business had visited the site approximately three months earlier and developed a safe work method statement for the site. However, the safe work method statement did not include detail in relation to the tracked dumper.
- b) SafeWork NSW issued notices to secure compliance on the site. All those notices have been complied.
  - i. SafeWork NSW has a range of translated resources available via its website and access to an interpreter, if required.
- c) The incident was reported to SafeWork NSW on 4 August 2021.
  - i. SafeWork NSW attended site on 10 August 2021.
- d) The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.

54. SafeWork NSW is currently investigating the circumstances of the incident. In order not to prejudice the outcome of the investigation, no further information can be released at this point.
55. SafeWork NSW is currently investigating the circumstances of the incident. In order not to prejudice the outcome of the investigation, no further information can be released at this point.
56. Information about incident notification requirements is available on the SafeWork NSW website at [www.safework.nsw.gov.au/notify-safework/incident-notification](http://www.safework.nsw.gov.au/notify-safework/incident-notification). SafeWork NSW cannot speculate regarding unreported incidents.
57. To ensure the community has access to information on how to keep safe at work during the COVID-19 pandemic, SafeWork NSW has developed a [guide available on its website](#). This guide has been translated into 8 key community languages: [Arabic](#), [Chinese](#), [Farsi](#), [Hindi](#), [Korean](#), [Thai](#), [Turkish](#) and [Vietnamese](#).

This guide provides information to employees on raising any concerns about the risk of contracting COVID-19 immediately with their employer and to work with them to identify solutions. SafeWork NSW circulated this guide directly to key CALD stakeholders, service providers, advocates and CALD community organisations, community leaders and workers.

SafeWork NSW's website provides the user with the option to translate information, including information for workers on COVID-19, in multiple community languages as well as English. It also utilises and covers the cost of on-demand telephone interpreting of calls with its Advisory Services group.

(a) Financial Year 2020-21: 75 \*

Financial Year 2021-22 (YTD): 31 \*

\* All advisory matters including COVID-19 related. Excludes licensing matters.

(b) Financial Year 2020-21: 92, including (a) above \*

Financial Year 2021-22 (YTD): 36, including (a) above \*

\* All advisory matters including COVID-19 related. Excludes licensing matters.

(c) Complaints, enquiries and incident notifications are not classified as to whether they involve use of interpreters, therefore segmentation of the volumes in (a) and (b) above is not available.

58. All matters received by SafeWork NSW are triaged for action and response in line with SafeWork NSW protocols.

As not all complaints include a request for a site attendance, an accurate answer cannot be provided to the question.

The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time. All matters received by SafeWork NSW are triaged for action and response in line with SafeWork NSW protocols.

## Dangerous Good and Hazardous Chemicals

59. Is the hazardous chemical labelling exemption made by SafeWork NSW still operational?
60. Are hazardous chemicals that are agricultural or veterinary and were manufactured or imported prior to 1 January 2018 still exempt from hazardous chemical labelling requirements?
61. Are hazardous chemicals that are not agricultural or veterinary and were manufactured prior to 1 January 2017 still exempt from hazardous chemical labelling requirements?
62. What safety inspections are conducted at businesses with these hazardous chemicals to ensure compliance with regulations

### ANSWER:

59. The labelling exemptions to clause 341 and 342 (1) and (2) of the Work Health and Safety Regulation 2017 was made so persons conducting a business or undertaking were not required to re-label all existing hazardous chemicals in their workplace with Globally Harmonised System of Classification and Labelling of Chemicals (**GHS**) elements, when GHS came into force in NSW on 1 January 2017. The exemptions were for hazardous chemicals manufactured or imported before 1 January 2017 that were labelled in compliance with the labelling requirements at that time and for AgVet chemicals manufactured or imported before 1 January 2018 that were labelled in compliance with the Australian Pesticides and Veterinary Medicines Authority (**APVMA**) labelling requirements.

Amended clauses 341 and 342 of the Work Health and Safety Regulation 2017 are currently operational in NSW. The exemptions given for non-AgVet chemicals are no longer needed as they are now incorporated into clause 341(2)(a) and 342(1)(a).

60. The exemption for AgVet chemicals was part of the exemptions referred to in the response to question 59. Its intention was to prevent the burden on manufacturers to relabel previous stock which were labelled only according to APVMA requirements, with the new post-2017 GHS requirements.

Amendments to clause 335 of the Work Health and Safety Regulation 2017 include what is required in AgVet labelling in NSW. AgVet chemicals must comply with Schedule 9 Part 3 clause 10, where the label must include two GHS elements (H and P statements) in addition to the APVMA requirements.

The exemption for AgVet chemicals manufactured or imported prior to 1 January 2018 is not explicitly stated in current work health and safety legislation. Therefore, the exemption should still remain for those APVMA-only compliant labels in the old pre-2018 stock.

61. Refer to the response to question 59.
62. Compliance with correct labelling is checked during all inspector activity dealing with hazardous chemicals in workplaces. Enforcement action or advice and assistance through engagement with manufacturers, importers or suppliers has been undertaken where non-compliance is evident.

A targeted intervention on suppliers of agricultural chemicals is currently being undertaken by SafeWork NSW's Regional NSW inspectorate, in which compliance with labelling will be a priority.

<b>Audiometric Testing Exemptions</b>
<p>63. Are there any plans to extend the audiometric testing exemption beyond December 31 2021?</p> <p>64. How are workers of exempt businesses who are exposed to noise levels that exceed the 'exposure standard for noise' protected?</p>
<p><b>ANSWER:</b></p> <p>63. This matter is under consideration.</p> <p>64. The act of undertaking audiometric testing or analysing the results of audiometric testing is not a control measure for noise and does not have any impact on the noise levels produced by a noise source.</p> <p>All persons conducting a business or undertaking in NSW have a duty of care under clause 57 of the Work Health and Safety Regulation 2017 (NSW) to ensure they manage risks to health and safety of their workers relating to hearing loss associated with noise. All persons conducting a business or undertaking must apply the hierarchy of risk control to eliminate, or if this is not possible, to reduce exposure to hazardous noise of their workers. For example:</p> <ul style="list-style-type: none"> <li>• eliminate – remove the noise source completely</li> <li>• substitute – replace the noise source with a less noisy item</li> <li>• isolate – enclose the noise source</li> <li>• engineering controls – altering the mechanism or structure of an item to make it less noisy</li> <li>• administrative controls – controlling the time period that a worker is exposed to noise or using noise signage. Hearing protection such as earmuffs or plugs are also an administrative control as they require the workers co-operation in their use.</li> </ul> <p>In early 2021, SafeWork NSW undertook verification visits to ensure NSW workplaces continue to apply the hierarchy of control to noise in their workplaces.</p> <p>Significant guidance material has been added to the SafeWork NSW website regarding how to control exposure in the workplace, including at <a href="http://www.safework.nsw.gov.au/resource-library/hazardous-manual-tasks/controlling-hazardous-noise-in-the-workplace">www.safework.nsw.gov.au/resource-library/hazardous-manual-tasks/controlling-hazardous-noise-in-the-workplace</a>.</p>
<b>Lead Exposure Exemptions</b>
<p>65. Are there any plans to extend the transitional period to comply with revised blood lead levels?</p> <p>66. Are there any businesses still in the transitional period who are yet to comply with revised blood lead levels?</p> <p>67. What inspections are being done on businesses who have not transitioned?</p> <p>68. What inspections are being done on businesses with high lead exposure to ensure they comply with WHS Regulations?</p>

**ANSWER**

65. The transitional period ended on 30 June 2021.
66. All NSW businesses are required to meet the revised blood lead levels from 1 July 2021.
67. All NSW businesses are required to meet the revised blood lead levels from 1 July 2021. SafeWork NSW receives lead risk work notifications from NSW businesses, and the applications are reviewed by SafeWork NSW's Hygiene and Toxicology Team on a weekly basis. Since January 2021, SafeWork NSW has received 192 lead risk work notifications. The Hygiene and Toxicology Team uses a combination approach, including workplace visits, advice provided over the phone and desk top audits, to ensure businesses meet their legislative requirements in reducing the risk of lead exposure.
68. In addition to activities referred to in the response to question 67, SafeWork NSW conducts workplace inspections/investigations, as appropriate, in response to notifications from NSW Health regarding elevated blood lead levels of workers and will conduct workplace inspections due to requests for service or incidents in relation to high lead exposure.

**SafeWork NSW Triage**

69. What tasks at SafeWork does Artificial Intelligence (AI) currently perform?
70. What plans are there to use AI technologies in the future at SafeWork NSW?
- (a) Are there plans to use AI in triaging SafeWork complaints?
- (b) What assessment or the use of AI in triaging SafeWork complaints has been undertaken to date?
71. When assessing AI, what assessment of the security risks to individual's confidential data is undertaken?
72. How are SafeWork users confidential information protected? What cybersecurity measures are in place?
73. Have there been any data breaches at SafeWork NSW?
74. In 2020 there was a large data breach at Service NSW, does Service NSW handle any of SafeWork NSW's users' data?

**ANSWER:**

69. SafeWork NSW uses predictive analytics and machine learning to generate a WHS rating system leveraging a large data set to aid decision making. The WHS rating supports an evidence-based approach to identifying high risk workplaces and provides additional data-based evidence to assist in the decision-making process.
- 70 -71 As at November 2021, no assessment on the use of AI in triaging SafeWork complaints has been undertaken.

72. All Safework systems that contain personal/confidential user information are protected by market leading cyber security and network security protection tools.

These tools are monitored by a 24/7/365 Security Operations Centre which uses Artificial Intelligence (AI), threat feeds and human analysis to detect malicious or abnormal behaviour and respond accordingly.

As part of the Department of Customer Service (DCS), Safework is a consumer of the GovConnect ICT Shared Service which includes Security Operations, and Security Policy & Governance Services.

DCS is committed to continuing to deliver security uplift (including improvements across mandatory controls and Essential 8) through its multi-year program 'Project Trust'. The program will deliver uplifts to cyber security, cyber hygiene, privacy and information management, across DCS, GovConnect and its customer agencies.

73. Safework information was impacted as part of the Customer Service cyber incident in 2020.
74. Service NSW handles SafeWork customer information to deliver and provide customer service for more than 10 transactions, including plant registrations and a range of licensing services for individuals and businesses such as construction, demolition and asbestos removal licenses.

#### **QANTAS Prosecution**

75. In early 2020, SafeWork announced a formal investigation into Qantas over potential WHS breaches relating to the dismissal of an airplane cleaner who raised COVID exposure concerns. On the 19<sup>th</sup> of October, SafeWork decided to take Qantas to the District Court. Has SafeWork received complaints from workers in other industries regarding unsafe exposure to COVID-19?
- (a) If so, how many complaints?
    - i. How many complaints resulted in improvement notices?
    - ii. How many complaints resulted in prohibition notices?
    - iii. How many complaints resulted in penalty notices?
  - (b) Given how serious exposure to COVID can be, why didn't SafeWork issue a prohibition notice so that work could stop until all cleaners were guaranteed PPE?
  - (c) Is Qantas continuing to abide by the improvement notice?
    - i. Were any additional complaints received from Qantas employees?
    - ii. If so, how many?
  - (d) What steps has SafeWork taken, to investigate workplaces from where complaints may have not been lodged, but could potentially have been potentially exposed to COVID-19?

#### **ANSWER:**

75. Yes.

- (a) SafeWork NSW received 3,337 requests for service (excluding statutory and advisory requests) related to COVID-19 between 1 January 2020 and 29 October 2021, including Qantas matters. The role type of the requestor, such as whether they are a worker, is not reported
  - i) Nine related to COVID-19 and 145 related to other issues.
  - ii) 19 related to COVID-19 and 37 related to other issues.
  - iii) Nil related to COVID-19 and 12 related to other issues.
- (b) Improvement notices were considered a proportionate response to the risk, as an inspection on 26 February 2021 indicated that personal protective equipment was supplied to the workers, but its use was not mandated. The inspection also indicated that cleaning practices required improvement.
- (c) Yes
  - i) Yes
  - ii) SafeWork NSW received 27 requests for service for Qantas related to COVID-19 between 1 January 2020 and 29 October 2021. The role type of the requestor, such as whether they are a worker, is not reported.
- (d) SafeWork NSW has worked (and continues to work) closely with NSW Health to identify high-risk workplaces and respond with advice and assistance, or to take compliance action where necessary. This includes the secondment of staff from SafeWork NSW to NSW Health.

SafeWork NSW has also participated in proactive COVID-19 compliance monitoring deployments as part of a whole-of-government regulatory response to the pandemic. Inspections undertaken as part of these deployments have occurred across a number of industries, most recently including retail, personal services, gymnasiums, manufacturing facilities and transport facilities.

#### **SafeWork NSW Response Times**

76. What is the average response time for SafeWork NSW to begin an investigation?

- (a) Does the minister think that a 112 day delay to a RFS is outrageously long?
- (b) Does the minister think that a 112 day delay merits a fresh investigation by SafeWork NSW?

77. In the course of an investigation into a potential WHS breach, is it standard practice for the SafeWork Inspector to interview the workers who were put at risk by a potential WHS breach?

- (a) Would the minister characterise the failure to interview non clinical staff at building 22 at Concord Hospital, who were potentially unnecessarily exposed to COVID for 6 months in 2020, as a failure that undermines the investigation by SafeWork NSW?

(b) Does the minister think that such a failure merits a fresh investigation by SafeWork NSW?

**ANSWER:**

76. The SafeWork NSW incident response and investigations – what to expect: Customer Service Standard, outlines the investigation process and what can be expected from SafeWork NSW when it undertakes an investigation under the *Work Health and Safety Act 2011*. The document is available on the SafeWork NSW website at [www.safework.nsw.gov.au/resource-library/prosecutions/customer-service-standard-what-to-expect-during-a-workplace-investigation](http://www.safework.nsw.gov.au/resource-library/prosecutions/customer-service-standard-what-to-expect-during-a-workplace-investigation).

a) The purpose of a supplementary question is to ask a question, not canvass opinion.

b) The purpose of a supplementary question is to ask a question, not canvass opinion.

77. Refer to the response to question 76.

a) The purpose of a supplementary question is to ask a question, not canvass opinion.

b) The purpose of a supplementary question is to ask a question, not canvass opinion.

**Mental Health**

78. What type of mental health training will managers receive through the Workplace Pulse Check tool?

79. Considering their high number of workers, particularly within the retail sector, why have large sized businesses been excluded from the use of the Workplace Plus Check tool?

80. What type of mental health support and resources will be made available for staff members?

81. Will the mental health resources be translated into different languages for staff members?

82. How will staff anonymity be maintained through this tool?

83. How much will be spent for the rollout of this tool across businesses in NSW?

84. How many businesses are currently using this tool?

85. How many businesses now have access to the mental health support set out under the NSW Mentally Healthy Workplaces strategy?

86. What action has been taken to inform NSW businesses of the strategy?

(a) What action has been taken to inform NSW businesses of mental health resources available through the strategy?

87. How many businesses targeted by the strategy are Culturally and Linguistically Diverse (CALD) businesses?



88. What resources are being made available for the 90,000 other businesses that are not using initiatives from the strategy, but are still taking action to create a mentally healthy workplace by 2022?
89. How is mental health status in workplaces targeted by the strategy being monitored?
90. Are initiatives under the strategy catered to the type of workplace accessing mental health resources?
91. How has the NSW Mentally Healthy Workplaces strategy been amended in light of the COVID-19 pandemic and the ensuing increased mental health concerns?
- (a) How has the target for mentally healthy workplaces under the strategy been amended in light of COVID?

**ANSWER:**

78. The Workplace Pulse Check tool provides an action plan for businesses to create a mentally healthy workplace. Actions may include training, such as the mental health at work training for managers delivered free to small and medium businesses by Black Dog Institute as part of the NSW Mentally Healthy Workplaces Strategy 2022.
79. Workplaces of any sector or size in NSW can use the online tool at [www.nsw.gov.au/mental-health-at-work/workplace-pulse-check](http://www.nsw.gov.au/mental-health-at-work/workplace-pulse-check). Large businesses are excluded from the free training and coaching services.
80. Mental health at work training for everyone is delivered by Black Dog Institute and free to small and medium businesses. There is also the Workplace Pulse Check tool and free online resources including information on how to:
- access support services
  - support colleagues
  - manage your mental wellbeing
  - meet your legal obligations
  - create a mentally healthy workplace.
81. Yes
82. The tool does not capture personal or contact details, only workplace demographics. Users can opt to email themselves their report and or subscribe to the e-news. User results are not matched with email addresses.
83. The Workplace Pulse Check tool cost \$70,000 to build and was promoted with several other strategy initiatives in a mass media campaign costing \$575,000.
84. As at 28 September 2021, the Workplace Pulse Check tool webpage had 31,505 unique page views.

85. All non-government businesses with up to 200 workers and not-for-profit organisations of any size in NSW can use the free programs: Direct Practical Coaching and Mental Health at Work Training. The website also includes free guidance, tools and resources for all businesses in NSW.
86. NSW businesses have been informed about the NSW Mentally Healthy Workplaces Strategy through promotion and engagement activities including media releases, SafeWork and Mentally Healthy Workplaces customer databases promotion, electronic direct mail, social media, stakeholder networks, Mentally Healthy Workplaces ambassador networks and promotion on [nsw.gov.au](http://nsw.gov.au).
- (a) NSW businesses have been informed about the NSW Mentally Healthy Workplaces Strategy programs, tools and resources through various promotion and engagement activities including:
- mass media campaigns: ‘Mental Health Matters to Me’ and NSW Government COVID-19 media campaigns
  - targeted campaigns through social media, digital, search, CALD channels, telemarketing, and Business NSW electronic direct mail (reach: 1.3 million businesses)
  - Ambassador program where 10 influential business leaders across industries use their networks and channels to promote strategy initiatives
  - stakeholder partnerships, promotions and events; and
  - integration into Service NSW and Business Connect services and communications.
87. The strategy targets all NSW workplaces.
88. All NSW businesses can access free guidance, tools and practical resources to create a mentally healthy workplace on [www.mentalhealthatwork.nsw.gov.au](http://www.mentalhealthatwork.nsw.gov.au).
89. The mentally healthy workplaces benchmarking tool measured NSW employer capability to provide a mentally healthy workplace in late 2017 and late 2020. The benchmarking tool will be used again in late 2022. Research is available at [www.nsw.gov.au/mental-health-at-work/mental-health-at-work-resources/research](http://www.nsw.gov.au/mental-health-at-work/mental-health-at-work-resources/research).
90. Yes. Tailored training, tools and resources are available for small businesses and four high-risk industries targeted in the strategy. A regional education project will also focus on the unique needs of regional workplaces in 2022.
91. The Strategy was refreshed in early 2021 to account for impacts on mental health from the COVID-19 pandemic and to apply learnings from the midpoint strategy evaluation. Four focus areas were identified to maximise the impact, including direct practical coaching, small and medium businesses, regional businesses and key industries.
- A 2021/22 priority target for direct practical coaching services was added to reach 1,000 micro, small or medium NSW businesses with timely and personalised support in 2021/22.
- a) Refer to the answer to question 91.

## Regional SafeWork NSW Offices

92. Does the government have any plans to establish further regional SafeWork offices, or expand current offices?
- (a) If yes, which areas?
93. What investigations including research or consultations has the government undertaken to determine if there is enough regional SafeWork NSW offices to handle regional issues?
94. How many SafeWork inspections are undertaken in regional areas each year?
- (a) How many were undertaken in 2011?
95. How many SafeWork complaints are made in regional areas?
96. What is the current response time for dealing with SafeWork complaints in regional areas?
- (a) How does this compare to Sydney?
97. Have any SafeWork workers in regional officers suffered from fatigue or burnout?

### ANSWER:

92. There are no current plans to establish further regional SafeWork offices.
- (a) Refer to answer for Question 92.
93. Of the 39 new SafeWork Inspector roles announced by Minister Anderson in June 2021, 17 have been assigned to offices in regional NSW. This is in response to predictions of significant population growth in regional NSW and a corresponding increase in infrastructure projects.
94. Refer to the table below.

Year	SafeWork NSW inspections in regional areas
2012	4,945
2013	4,361
2014	4,012
2015	4,038
2016	4,008
2017	3,969
2018	4,210
2019	3,917

2020	3,533
2021 (as at 31 October 2021)	2,677
<b>Total</b>	<b>39,670</b>

- (a) SafeWork NSW is unable to report on inspection locations in 2011 due to a change in the data structure from 2012.

95.

<b>Year</b>	<b>SafeWork NSW requests for service in regional areas</b>
2012	3,648
2013	4,248
2014	4,134
2015	4,083
2016	4,365
2017	4,119
2018	4,331
2019	4,351
2020	4,776
2021 (31 October 2021)	4,284
<b>Total</b>	<b>42,339</b>

96. The Department of Customer Service does not have this information readily available. It would require significant resources to source, compile and validate this information. The diversion of resources cannot be supported at this time.

- (a) All matters received by SafeWork NSW regardless of location are triaged for action and response in line with SafeWork NSW protocols.

97. The department has no incident or hazard notifications for fatigue or burnout for regional officers recorded in its central systems. There are no workers compensation claims relating to fatigue or burnout for regional officers.

### **Building Compliance Orders**

98. How many stop work orders have been issued since September 2020?

- (a) How many have revoked?

- (b) Have any been re-issued?
  - (c) How many failed to comply?
99. How many prohibition orders have been issued since September 2020?
- (a) How many have revoked?
  - (b) Have any been re-issued?
  - (c) How many failed to comply?
100. How many building work rectification orders have been issued since September 2020?
- (a) How many have revoked?
  - (b) Have any been re-issued?
  - (c) How many failed to comply?
101. How many enforceable orders have been issued since September 2020?
- (a) How many have revoked?
  - (b) Have any been re-issued?
102. How many building compliance orders have been issued with any error?
- (a) How many had to be corrected?
  - (b) How many had to be re-issued?
    - i. Please provide a list of orders that have been issued with errors.
103. How many building rectification orders do not include specific timeframes for rectification of defects?
104. Does the Department of Fair Trading track the sale of residential apartments issued a prohibition order?

**ANSWER:**

- 98-101. Orders are published on the Fair Trading website.
102. While there is no such thing as a building compliance order under the *Residential Compliance and Enforcement Powers Act 2021* as at 5 November 2021 one prohibition order issued was issued with an error under the Act in relation to a development at 9 Hassall Street, Parramatta.
103. Nil as at 5 November 2021.
104. From 1 September 2021, the Property and Stock Agents Regulation 2014 (PSA Regulation) requires real estate agents to disclose orders under the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (RAB order) as a material fact. NSW Fair Trading has contacted agents that have units for sale where a RAB order is in place and reminded them of their

obligation under the PSA Regulation. While NSW Fair Trading does not specifically track the sale of apartments where a prohibition order has been issued, it regularly reviews 'RP Data' and other sources to identify units up for sale with new agents and reminds those agents of their obligation.

### **Cladding Safety Panel**

105. How many times has the Cladding safety panel since July 2020?

#### **ANSWER:**

105. The Cladding Product Safety Panel has met 14 times since July 2020.

### **Building Classifications**

106. How many Class 2 Buildings are in NSW?

(a) Please provide a list broken down by suburb.

107. How many Class 3 buildings are in NSW?

(a) Please provide a list broken down by type of building and suburb

108. How many Class 9 buildings are in NSW?

(a) Please provide a list broken down by type of building and suburb

#### **ANSWER:**

106. This question should be referred to the Minister for Planning and Public Spaces.

107. This question should be referred to the Minister for Planning and Public Spaces.

108. This question should be referred to the Minister for Planning and Public Spaces.

### **Occupation Certificates**

109. How many interim occupation certificates are still valid in NSW?

(a) How many were issued in 2015?

(b) How many were issued in 2016?

(c) How many were issued in 2017?

(d) How many were issued in 2018?

(e) How many were issued in 2019?

110. How many interim occupation certificates have been issued a final occupation certificate in? Please provide a list broken down by LGA.

(a) 2019

(b) 2020

(c) 2021

111. Does the Department of Fair Trading track interim occupation certificates?

(a) If so, how do you collect this information?

112. Can you provide a list of the number of interim certificates in NSW? Broken down by suburb and LGA.

113. How many investigations of developments with interim occupation certificates been conducted?

**ANSWER**

109. This question should be referred to the Minister for Planning and Public Spaces.

110. This question should be referred to the Minister for Planning and Public Spaces.

111. No.

112. This question should be referred to the Minister for Planning and Public Spaces.

113. Nine audits as at 5 November 2021.

**OC Audit**

114. How many OC audits have been completed since September 2020?

(a) Broken down by date, location and outcome

115. How many OC audits were conducted post occupation certificate issued?

116. How many OC audits were conducted pre occupation certificate issued?

**ANSWER:**

114. As at 5 November 2021, 27 audits have been completed . As some of these sites did not have defects identified, the Government does not propose releasing specific addresses as doing so may adversely impact future property value.

115. 12 as at 5 November 2021. These audits are open as at 5 November 2021.

116. 82 as at 5 November 2021. This includes both open and completed/closed audits.

**NSW Department of Fair Trading**

117. How many people are employed in the NSW Department of Fair Trading

(a) Please provide a list of positions

118. How many people are employed in the office of the NSW Building Commissioner

(a) Please provide a list of positions

119. How many people are employed in the office of Project Remediate

(a) Please provide a list of positions

**ANSWER:**

117. The NSW Fair Trading function is undertaken by staff across various business units of Better Regulation Division (BRD). We are unable to provide numbers or positions for staff undertaking NSW Fair Trading related functions as part of their roles within BRD..

(a) Please refer to answer to Question 117.

118. There are currently 10 people employed in the Office of the Building Commissioner.

(a)

- Director, Office of the Building Commissioner
- Digital Program Manager
- Technical Program Manager
- Director, Legal
- Program Manager (2 roles)
- Project Officer (2 roles)
- Senior Project Officer (2 roles)

119. As at 4 November 2021 there are eight people employed in the Office of Project Remediate.

(a)

- Director Project Remediate
- Executive Officer
- Manager Strategic Communications
- Principal Solicitor
- Project Officer (2 roles)
- Principal Compliance Officer
- Senior Compliance Officer

**Project Remediate**



120. Which suburbs have been identified for priority removal of cladding?
121. Which buildings have been identified as the first 6 to be removed?
  - (a) Please provide a list of buildings by suburb
122. How many people are employed as remediation contractors in Project Remediate
  - (a) When were the positions advertised?
  - (b) When were the positions appointed?
123. How many building assessment and investigation contractors are employed in Project Remediate
  - (a) When were the positions advertised?
  - (b) When were the positions appointed?
124. How many Design teams are there in Project Remediate?
  - (a) How many people are employed in each design team? Please provide a list broken down by role.
    - i. When were the positions advertised?
    - ii. When were they appointed?
125. How many architects are employed in Project Remediate
  - (a) When were the positions advertised?
  - (b) When were they appointed?
126. How many specialist façade designers are employed in Project Remediate
  - (a) When were the positions advertised?
  - (b) When were they appointed?
127. How many engineers are employed in Project Remediate
  - (a) When were the positions advertised?
  - (b) When were they appointed?
128. How many estimators are employed in Project Remediate
  - (a) When were the positions advertised?
  - (b) When were they appointed?
129. How many Superintendents are employed in Project Remediate

- (a) When were the positions advertised?
- (b) When were they appointed?
- 130. How many assurers are employed in Project Remediate?
- 131. How many sub-contractors have been employed in Project Remediate?
- 132. How many buildings eligible for Project Remediate have already commenced remediation?
  - (a) Please provide a list broken down by suburb
- 133. How many owners' corporations registered their interest in Project Remediate?
  - (a) Please provide a list broken down by date of registration
- 134. Have you notified local councils who have buildings eligible for Project Remediate that have not registered?
  - (a) If yes, were they notified in writing?
  - (b) When were they notified made?
- 135. Will Class 2 Buildings eligible for Project Remediate, but not yet registered be able to lodge a late registration?
- 136. Will the registration deadline for Project Remediate be extended?
- 137. How many buildings registered for Project Remediate have been triaged?
- 138. Please explain the process of triaging building registered for Project remediate.

ANSWER:

- 120. Buildings are prioritised based on a combination of risk, complexity and readiness.
- 121. The buildings which are eligible for Project Remediate have high risk combustible cladding. Consequently, the address details of these buildings are not released as this could present a safety, arson and/or privacy risk.
  - (a) The first six buildings are located in the following suburbs: Bondi Beach, Bondi Junction, Camperdown, Darlington, Gymea, Little Bay.
- 122. The Managing Contractor, Hansen Yuncken, will procure panels of suitably qualified and experienced remediation contractors and will recommend the engagement of a contractor from this panel to each owners corporation following a competitive tender process. Registrations of interest for these roles opened on the Project Remediate website on 31 May 2021. Hansen Yuncken also sought expressions of interest for these roles from 25 August 2021 via social media (Hansen Yuncken Instagram and LinkedIn accounts) and industry outreach, including through industry associations and networks. The opportunity to register remains open and procurement processes are ongoing.

The panel procurement will be carried out to align with the end of the building design phase.

a) and b) Refer to response to Question 122.

123. The Managing Contractor Hansen Yuncken is engaging consultant Triage teams to undertake building assessment and investigation.

Registrations of interest for these roles opened on the Project Remediate website on 31 May 2021. Hansen Yuncken also sought expressions of interest for these roles from 25 August 2021 via social media (Hansen Yuncken Instagram and LinkedIn accounts) and industry outreach including through industry associations and networks. The opportunity to register remains open and procurement processes are ongoing.

Appointments to these roles is underway and ongoing. It is noted that these are consultant appointments and not Department of Customer Service (DCS) staff appointments. As at 4 November 2021, three companies have been engaged in Triage roles with appointments made on 22 October 2021 and 2 November 2021.

(a) and (b) Refer to answer to 123.

124. The Managing Contractor, Hansen Yuncken, is engaging consultant Design teams to undertake the detailed design and engineering of replacement façade systems. Each design team will comprise the following roles:

- Architect
- Façade Engineering including Fire Engineer, Structural Engineer, Ecologically Sustainable Design Consultant, Acoustic Consultant as required
- Quantity Surveyor or estimator; and
- Building Code of Australia Consultant.

- (a) Registrations of interest for these design roles opened on the Project Remediate website on 31 May 2021. Hansen Yuncken also sought expressions of interest for these roles from 25 August 2021. The opportunity to register remains open and procurement processes are ongoing.

The size of the design team will depend on the nature of each project. This work is generally suitable for smaller and mid-tier firms. This sector is able to deliver value for building owners and will contribute to the NSW economic recovery. Appointment of these roles is underway and ongoing. It is noted that these are consultant appointments and not DCS staff appointments.

- (i) Refer to answer to 124(a)

- (ii) As at 4 November 2021 contracts for design services have not been awarded. Acor Consultants Pty Ltd has been engaged by Hansen Yuncken to perform the role of global façade consultant for the program. Acor employs two architects and four façade designers who are assigned to the global façade consultant role.

125. Refer to answer to question 124.
126. Refer to answer to question 124.
127. Refer to answer to question 124.
128. Refer to answer to question 124.
129. The Managing Contractor, Hansen Yuncken, will procure panels of suitably qualified and experienced superintendents and will recommend the engagement of a person from this panel to each owners corporation following a competitive tender process. Registrations of interest for these superintendent roles opened on the Project Remediate website on 31 May 2021. Hansen Yuncken also sought expressions of interest for these roles from 25 August 2021. The opportunity to register remains open and procurement processes are ongoing.
- It is noted that these are consultant appointments and not DCS staff appointments.
130. The Managing Contractor, Hansen Yuncken, will procure panels of suitably qualified and experienced assurers and will recommend the engagement of a person from this panel to each owners corporation following a competitive tender process.
- Registrations of interest for these assurer roles opened on the Project Remediate website on 31 May 2021. Hansen Yuncken also sought expressions of interest for these roles from 25 August 2021. The opportunity to register remains open and procurement processes are ongoing.
- It is noted that these are consultant appointments and not DCS staff appointments.
131. As at 4 November 2021, no sub-contractors have been engaged by or on behalf of Project Remediate.
132. Triage works for have commenced for the first tranche of 32 buildings that are eligible for Project Remediate. .
133. As at 4 November 2021, 293 owners corporations have registered interest in Project Remediate. Registrations opened on 31 March 2021. The buildings which are eligible for Project Remediate have high risk combustible cladding. Consequently, the address details of these buildings are not released as this could present a safety, arson and/or privacy risk.
134. (a) Yes.
- (b) Letters were sent to the General Managers of applicable councils notifying them of eligible buildings on 1 April 2021, and of non-registered buildings where applicable on 7 September 2021. The Office of Project Remediate also liaises with council officers regarding registered and eligible buildings in the council's area.
135. Yes, owners corporations of eligible buildings are encouraged to register interest on the Project Remediate website, [www.nsw.gov.au/project-remediate](http://www.nsw.gov.au/project-remediate).

136. Although owners corporations were encouraged to register by 30 September 2021 to allow the early commencement of review and triage work, registrations of interest are still encouraged and will be considered and included in the program where eligible.

137. Triage works for have commenced for the first tranche of 32 buildings

138. For each registered building that is eligible to participate in Project Remediate, the Office of Project Remediate obtains documentation about the building from the owners corporation, the consent authority and other relevant parties, including by way of information gathering powers under the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* where necessary.

The managing contractor, Hansen Yuncken, conducts a review of all available information and to ascertain the status of the building and its cladding and to assist in scheduling the building according to its risk, complexity and readiness to undergo remediation.

Specialist consultants are engaged to conduct a physical investigation of the building to produce a detailed report on the build-up and condition of the façade that will inform the work by design teams develop suitable remediation designs in consultation with each owners corporation.

### **Building Reforms**

139. In circumstances where 'Construction Team' entities no longer exist, what measures are being proposed to safeguard owners from ongoing financial liabilities that stem from regulatory failures of the construction industry?

140. Are there any plans to provide access to data about building quality being collected in the 'data lake' to organisations outside of government (e.g. researchers, industry associations)?

(a) If so, what criteria will be used to determine who can access this data?

### **ANSWER:**

139. Home Warranty Insurance has been available in NSW since 1997 and protects purchasers of class 1 buildings in the case of insolvency where a project is not completed or the builders is unable to return to address claims under the statutory warranties. In respect of Class 2 building, the introduction of ratings is likely to significant reduce the ability of a company to phoenix to avoid legal or financial responsibilities, as such actions would impact their ratings. Further, the introduction of decennial liability insurance to the market will also assist as it a first resort product and claims can be made by the owners corporation regardless of whether the original developer is still available.

140. The Office of the Building Commissioner is establishing protocols to be able to share regulatory data with universities to allow the production of formal research under an appropriate framework that considers matters such as ethics, privacy and confidentiality.

(a) Refer to answer to Question 140.

### **Hassall Street**

141. How many times has a home owner of 9 Hassall Street contacted the NSW Department of Fair Trading?

<p>142. What contact has the NSW Department of Fair Trading had with home owners and/or buyers of 9 Hassall Street?</p> <p>143. What was the original function of prohibiting the registration of the strata plan for 9 Hassall Street?</p> <p>144. Has any executive or other staff from the NSW Department of Fair Trading met with home owners from 9 Hassall Street?</p>
<p><b>ANSWER:</b></p> <p>141. Three enquiries and nil complaints between 5 May 2021 and 5 November 2021.</p> <p>142. NSW Fair Trading responded to three enquiries between 5 May 2021 and 5 November 2021.</p> <p>143. This question was answered in the Budget Estimates hearing.</p> <p>144. No.</p>
<p><b>Construct NSW Research Report</b></p>
<p>145. When was the questionnaire issued to 1,400 strata managers?</p> <p>146. How long were strata managers given to complete the questionnaire?</p> <p>147. What was the criteria used to identify strata managers to complete the questionnaire?</p> <p>(a) Please provide a breakdown of Strata managers who participated in the questionnaire broken down by suburb.</p>
<p><b>ANSWER:</b></p> <p>145. The questionnaire was issued to Strata managers in December 2020.</p> <p>146. Strata managers were given six months to complete the questionnaire (closed May 2021).</p> <p>147. The questionnaire was distributed to all Strata managers who:</p> <ul style="list-style-type: none"> <li>• are members of Strata Community Association NSW, and</li> <li>• manage one or more Class 2 building in NSW.</li> </ul> <p>a) The survey did not collect the suburb of the Strata managers who participated in the questionnaire. However, the 492 buildings included in the questionnaire results were situated in a total of 191 suburbs across NSW.</p>
<p><b>Questions from Ms Abigail Boyd MLC</b></p>
<p><b>Greyhound Industry Future Fund</b></p>
<p>In June, you announced that the money that GRNSW saves now that GWIC will be funded by the Government will be invested into the new Greyhound Industry Future Fund, which will receive a</p>

minimum of \$25 million over the next five years. You stated that the fund will “invest in capital items like grandstands and patron facilities, as well as rehoming facilities”.

148. Is GRNSW able to spend the entirety of the fund on spectator improvements and prize money, or is there a requirement for a minimum expenditure on rehoming facilities?

149. Are tracks able to receive funds for spectator improvements and prize money if the track minimum standards are as yet unmet?

150. What are the financial terms of GRNSW’s Future Fund contributions?

151. Is there a yearly minimum contribution or just a five-yearly minimum?

152. Are contributions required to match the Government’s contributions after PoC tax to GWIC?

**ANSWER:**

148-152. The Greyhound Industry Future Fund was announced in June 2021 as part of the new funding model for the NSW greyhound racing industry. Future Fund requirements will be implemented via changes to the GRNSW Operating Licence, which are currently being finalised.

**GWIC Disciplinary Action Decisions on pin firing**

153. Is thermal capsular shrinkage a permitted procedure or treatment for greyhounds?

154. Three dogs (Chosen One, Rommel, and Black Missile) were recently permanently barred from racing as a result of a GWIC Disciplinary Action Decision finding of pin-firing being used on these dogs.

(a) Please provide an update as to the greyhound register status of Chosen One.

(b) Please provide an update as to the greyhound register status of Rommel.

(c) Please provide an update as to the greyhound register status of Black Missile.

155. The disciplinary action taken as a result of each of the three findings is that the relevant dogs have been barred from racing. There has been no financial penalties or impacts on the industry participation placed on the owners of these dogs. After being informed about these three cases of pin-firing, you stated that “there is no room in the industry for the people you are mentioning”. In light of your comments, will you commit legislating that individuals found guilty of pin-firing under the Prevention of Cruelty to Animals Act and/or charged with the procedure of ‘pin firing’ by GWIC will be permanently barred from participating in the greyhound racing industry?

**ANSWER:**

153. I am advised by the Greyhound Welfare & Integrity Commission (Commission) that it is obtaining expert opinion on whether thermal capture shrinkage is included in the definition of firing in section 21A of the *Prevention of Cruelty to Animals Act 1979* (POCTA Act).

154.

- (a) *Chosen One* is registered and eligible to race as a result of a stay of proceedings granted by the Racing Appeals Tribunal (Tribunal), pending the final determination of an appeal against the Commission's decision.
- (b) *Rommel* is registered and eligible to race as a result of a stay of proceeding granted by the Tribunal, pending the final determination of an appeal against the Commission's decision.
- (c) *Black Missile* is prohibited from racing.

155. The Commission is moving to introduce a new Local Rule to clarify the definition of firing as a prohibited procedure under the Greyhound Racing Rules (Rules) and prohibit any greyhound which has been subjected to a firing procedure from racing.

If a participant is convicted under section 21A of the POCTA Act, the Commission has express powers under legislation and the Rules to permanently ban a participant from the greyhound racing industry.

#### **Greyhound race footage**

156. During the last Budget Estimates hearings, you said you were unaware of the censoring of footage of greyhound deaths or injuries. It is routine practice for Greyhound Racing NSW to edit footage on their websites to remove video evidence of deaths or injuries occurring. Do you support this practice?

#### **ANSWER:**

156. The *Greyhound Racing Act 2017* provides that Greyhound Racing NSW (GRNSW) is not and does not represent the Government. Decisions made by GRNSW in relation to the publications of race videos are matters for GRNSW and made independently of the NSW Government.

#### **Whole of Life Tracking of Greyhounds**

157. GWIC has confirmed that around 2,000 NSW greyhounds have been transferred to other Australian states and territories. Can you confirm the status of these greyhounds and whether or not they are still alive?

#### **ANSWER:**

157. I am advised by the Commission that:

- When a greyhound is transferred interstate the controlling body in that jurisdiction is responsible for those greyhounds. Most greyhounds are transferred interstate to continue their racing careers.
- The Commission works closely with all other jurisdictions on ensuring that the national racing rules and legislative frameworks in each jurisdiction are complied with in the interest of ensuring high welfare and integrity standards in what is an important national racing industry, especially in regional communities.
- The Commission and other controlling bodies throughout Australia and New Zealand have information exchange procedures and also work closely together through



Greyhounds Australasia to implement standard procedures and processes including for registration transfers to track all registered greyhounds.

- An audit conducted earlier this year of greyhounds that had been bred in NSW and subsequently transferred to other jurisdictions indicated that the vast majority – 75 per cent – went to Victoria and Queensland for racing and breeding purposes.
- The Commission and other controlling bodies utilise the national database which provides for continuous tracking of greyhounds including those transferred interstate. The monitoring and compliance of greyhounds is the responsibility of the controlling body within the jurisdiction where the greyhound is domiciled.
- The Commission will continue to work closely with the regulators of other jurisdictions via the national body, Greyhounds Australasia, to provide conformity in standards and rules.

### **Horseracing knackery Rules**

158. The recent case of a high-profile trainer winning his appeal against a three-year disqualification from racing for sending horses to slaughter, brought to light two deeply concerning loopholes in the NSW rules of racing.

Firstly, Racing NSW's local rule 114, which is designed to prevent horses being killed when no longer wanted, does not capture circumstances of intent if it is decided it was not the "primary intent" of the person sending them to be killed.

Secondly, the words "similarly disposed of" used in LR114(5)(e) which states a horse is not to be, directly or indirectly, sent to an abattoir, knackery or similarly disposed of should be interpreted to mean "a horse is disposed of (killed) for the purpose of its meat being used as food". Therefore, if a racing participant kills a thoroughbred horse on their own property, and buries them in a pit, for example, they would presumably not be in breach of the rule.

Will you act to ensure Racing NSW amends Local Rule 114 to address these two loopholes and to also ensure broodmares are also protected under the rule?

### **ANSWER:**

158 I am advised by Racing NSW:

In respect of the first "loophole", Racing NSW does not agree with the Appeal Panel's finding and has appealed that decision to the Racing Appeals Tribunal.

- The hearing of that appeal has been delayed by COVID-19 restrictions due to the trainer's regional NSW location. However, in the interim, the trainer in question has not been re-licensed by Racing NSW pending that appeal.
- The second "loophole" does not exist as there is a further provision, Local Rule 114(4), which prohibits an owner, trainer or any person in charge of a horse from euthanizing or destroying a horse (or permitting a horse to be euthanized or destroyed) unless a veterinary surgeon has certified that it is necessary on welfare or safety grounds. This includes persons under the jurisdiction of Racing NSW that own broodmares.

## Coal Mine Subsidence

- 159 How many people are employed directly under Subsidence Advisory NSW?
- 160 In October 2017, Subsidence Advisory NSW outsourced the claims assessment and other associated services process.
- How many suppliers does the scheme engage?
  - What is the cost of engaging those suppliers?
  - How many suppliers work with or in the coal mining industry?
  - What is the typical case resolution time for a claim?
  - What is Subsidence Advisory NSW's target case resolution time?
  - How many subsidence claims have been processed since 1 Jan 2018?
  - How many were due to active mines?
  - How many were due to non-active coal mines?
- 161 Under the Act, the Chief Executive may, for a period of five years from the commencement of the Act, make payments from the Fund to reimburse the following persons wholly or in part for compensation payments made by Centennial Mandalong Pty Limited, South32 Limited and Tahmoor Coal Pty Ltd. How much compensation has been paid from the fund since the Act commenced to reimburse:
- Centennial Mandalong Pty Limited
  - South32 Limited
  - Tahmoor Coal Pty Ltd
- 162 How is the leviable contribution calculated from Regulation to Regulation?
- 163 How many properties have been acquired by Subsidence Advisory NSW and are now being leased
- 164 How much profit has been made from Subsidence Advisory NSW acquiring and then reselling properties?
- 165 What is the total proceeds of investment of money in the Fund for each financial year since the Act commenced??
- How many times has vacant land with a proposed improvement been acquired by Subsidence Advisory NSW because of the Chief Executive's opinion that the land is likely to be adversely affected by subsidence?
  - Is the value of the purchase price calculated as with, or without, predicted subsidence damage?

- 166 What are the current approved procedures, as determined by the Chief Executive, for the determination of claims under the Coal Mine Subsidence Compensation Act 2017?
- a. How many times since the Act came into effect has the Chief Executive amended the approved procedures?
  - b. Were the proprietors of coal mines consulted prior to the approved procedures being amended or replaced?
- 167 How many times has Subsidence Advisory NSW, or agents acting on the behalf of Subsidence Advisory NSW, taken subsidence claims to the courts to dispute the claim of subsidence damage as a result of coal mine subsidence?
- a. Does Subsidence Advisory NSW have a target or KPI of numbers of claims approved per financial year?
  - b. Does Subsidence Advisory NSW have a target or KPI of proceeds raised from property sales and/or other fund investments?

**ANSWER:**

159. As at November 2021, 41 employees.

160. Under the Subsidence Advisory NSW Independent Assessment Scheme:

- a) As at November 2021, 77 suppliers
- b) Suppliers are engaged on a scope of works basis, dependant on the service required, which may include, geotechnical assessment, pre mining inspection or ground remediation works. The cost of engagement varies greatly, dependant on the scope.
- c) Due to the specialisation of mine subsidence expertise, suppliers may work within the broader coal mining industry. Suppliers are contracted by Subsidence Advisory on a needs basis dependant on the service required and are required to declare any conflicts of interest for each engagement. Engagement does not proceed with any suppliers currently employed by a Mine Proprietor relevant to the scope of engagement.

d and e) Subsidence Advisory has a 90-day guarantee of service to issue claim determinations to property owners. Since January 2018, 92% of claims have been processed within the guarantee of service timeframes. Claim processing times may be extended if further assessment and surveying is required. Claim assessments in active mining areas are carried out once mine subsidence movements have ceased. Claim assessment timeframes were impacted by COVID-19.

f) 1123

g) 164

h) 959

161.

- a) \$4,700,00
- b) \$3,914,922
- c) \$4,552,656

162. The levy applied to NSW Coal Mines is informed by actuarial reports. Actuarial studies are commissioned every three years to provide updated projections and evaluation of later years' levy requirements. The levy is subject to change to adapt to findings detailed by the actuarial studies.

163. None

164. Of the twelve properties purchased by Subsidence Advisory NSW since 2017, six have been divested. The net loss of purchasing the six properties is \$2,005,519.82.

165. The only investment of money in the Fund is managed by TCorp, the central financing authority for the public sector:

	Cash fund	Managed fund (TCorp)	Total
2018/19	\$ 153,999.18	\$ 1,874,388.90	<b>\$ 2,028,388.08</b>
2019/20	\$ 59,070.05	\$ 2,496,636.03	<b>\$ 2,555,706.08</b>
2020/21	\$ 8,667.19	\$ 4,754,129.52	<b>\$ 4,762,796.71</b>
<b>Total</b>	<b>\$ 221,736.42</b>	<b>\$ 9,125,154.45</b>	<b>\$ 9,346,890.87</b>

- a) None.
- b) The purchase offer is calculated based on valuations independently determined by the Australian Property Institute (API). The API is instructed to value properties as if a property is without mine subsidence damage or predicted damage.

166. The approved procedures are the Guidelines - *Process for Claiming Mine Subsidence Compensation*. The Guidelines commenced on 1 January 2018 and are publicly available on Subsidence Advisory NSW's website.

- a) The approved procedures have been amended once in April 2018.
- b) No, the amendments to the approved procedures were minor. Under the *Coal Mine Subsidence Compensation Act 2017*, Subsidence Advisory NSW is required to consult with mine proprietors should it propose any changes to the approved procedures. However, this does not apply to an amendment of the approved procedures that, in the opinion of the Chief Executive, is minor.

167. None

a) No

b) No

## Questions from the Hon Mark Pearson MLC

### Horse Racing

- 168 The Horse and Dog Racing in Australia - Market Research Report, March 2021 noted that factors such as falling race day attendances and negative perceptions surrounding animal welfare are limiting industry growth. While these factors have yet to impact on gambling revenues, is the Minister concerned that the government is supporting an industry that is losing its social licence to operate in NSW? <https://www.ibisworld.com/au/industry/horse-dog-racing/657/>
- 169 In the *Thoroughbred Racing Act*, there are no specific statutory obligation for the horse racing industry to address the welfare of horses. Given the changes in social attitudes towards the protection of race horses and the extensive media coverage when horses are injured, die or are killed on the track, do you consider that this failure is a legislative oversight that needs to be remedied?
- 170 Minister, why is the greyhound industry required to publish quarterly reports of injuries and deaths during the racing season but it is not required of Racing NSW and Harness Racing NSW?
- 171 Would you support a statutory mandate for Racing NSW and Harness Racing NSW to publish quarterly reports of injuries and deaths?
- 172 Most thoroughbred racehorses begin training at 18 to 20 months of age, well before their skeleton has reached full maturity, in readiness for commencing commercial racing as two-year-olds. A 2006 NSW study into injuries in 2 and 3-year-old racehorses documented that 248 horses suffered 428 muscular-skeletal injuries including micro-fractures and associated inflammation of the cannon bone. Minister, given the high risk of young horses being subjected to such injuries, why doesn't the government outlaw 2-year-old racing? **Risk factors for musculoskeletal injuries in 2-year-old Thoroughbred racehorses**, N Cogger: <https://pubmed.ncbi.nlm.nih.gov/16481055/>
- 173 In May 2021, jockey Serg Lisnyy was reported to Racing NSW for using unapproved roller spurs during trackwork with a racehorse named Tarsus. Tarsus suffered 15 lacerations. NSW Stewards suspended Lisnyy for 6 months. While awaiting appeal, he was fined for excessive use of the whip on a horse. The Racing NSW welfare guidelines state that they are underpinned by the NSW Prevention of Cruelty to Animals Act, and yet these cases of proven cruelty were not referred to the RSPCA.
- a) Minister, Does Racing NSW have the regulatory authority to avoid referral of an obvious cruelty case to NSW RSPCA for criminal investigation?
- b) If so, does this not raise questions about the potential conflict of interest by Racing NSW acting to avoid public scrutiny of the industry?
- c) Is it in the public interest for Racing NSW to facilitate the protection of participants from possible criminal charges when animals have been treated with such apparent egregious cruelty?

- d) What are your Ministerial responsibilities in regards to the oversight of the industry in regards to regulations to provide for race horse welfare?

<https://www.racingsw.com.au/wp-content/uploads/TARSUS-LISNYY-WAUGH-Stewards-Report-20-May-2021.pdf>

- 174 The euthanasia of racehorses suffering catastrophic injuries on race-days remains one of the biggest challenges to the public perception and integrity of the horse racing industry. Stewards' reports have disclosed the number of active racehorses who have died in NSW this season is now at thirty-seven., Is the Minister prepared to engage with Racing NSW about the need to conduct scientific studies into risk factors associated with catastrophic injuries and deaths in racing?

<https://www.racingaustralia.horse/PostStewardsReports/19082020CANT.pdf>

**ANSWER:**

168. I completely reject the assertion that the Racing industry is in decline or at risk of losing its social licence. While race day attendances were obviously impacted by the COVID-19 pandemic and associated lockdowns, there has been overwhelming interest by patrons to return to the racecourse when permitted to do so.
169. I reject the premise of the question. The assertion that support for the racing industry is in decline is the personal opinion of the member.
170. Quarterly reporting by the Greyhound Welfare & Integrity Commission is an initiative introduced by that organisation to address concerns raised about transparency during the reform of the industry in 2017.
171. Racing NSW and Harness Racing NSW report on an annual basis to the Parliament in accordance with their legislative obligations, with these reports also including information on these matters.
172. I am advised by Racing NSW that veterinary research by the University of Sydney has previously found no detrimental effect of a horse's career if it started racing as a two-year-old, and that thoroughbred horses beginning their careers in Australia at younger ages were more likely to have longer careers than those starting their careers later in life.
173. I am advised by Racing NSW:
- a. It liaised with the RSPCA to provide details of the matter. The RSPCA were requested to make the appropriate requests for the information in respect to the matter and Racing NSW would provide all information requested through the proper channels.
  - b. Racing NSW released the findings of the matter on its website and to the media. This resulted in the matter being published in mainstream media. In addition, the case was detailed in the Racing NSW Annual Report.
  - c. It does not facilitate the protection of participants from possible criminal charges. Racing NSW works closely with the NSW Police Force and also has the services, on secondment, of a Detective Sergeant currently working in the NSW Police Force. Any instances of a

person intentionally committing animal cruelty offences can be referred to the NSW Police Force for investigation.

- d. Racing NSW is a world leader on equine welfare and has introduced many significant equine welfare initiatives.

174. No. These are matters for Racing NSW.

## Questions from Mr David Shoebridge MLC

### Building Standards

175. Has the Department and/or Minister received advice regarding CSIRO and other independent laboratory evidence testing in relation to solid aluminium?

- (a) If so, are you aware of CSIRO and other independent laboratory evidence testing in relation to solid aluminium failing multiple fire safety criteria under highest Australian standard (AS5113) fire testing?
- (b) If so, are you aware of CSIRO and other independent laboratory evidence testing in relation to solid aluminium that indicates solid aluminium, a product the Panel is recommending, sheds up to 20kg chunks of debris - enough to kill a firefighter – and melts off its mechanical fixing in a real fire situation?

### ANSWER:

175. I am aware that a number of product suppliers have conducted testing that purports to show their competitors' products fail Australian Standards when tested. The NSW Government's response to this issue is relying on independent and credible testing and advice not that of product suppliers.

The Cladding Product Safety Panel (CPSP) has provided advice on cladding materials including advice on solid aluminium, the testing requirements applicable to it under the National Construction Code (NCC) and its performance in various tests.

- (a) The CPSP advises that AS 5113 testing is not applicable to solid aluminium under the NCC as it is a non-combustible material.

The CPSP advises that solid aluminium is a non-combustible material and does not contribute to the spread of fire. When installed with mechanical fixing as recommended by the CPSP this mitigates the risks associated with falling debris.

### Newcastle ammonium nitrate

176 Are you aware of the two depots in Newcastle with significant stocks of the explosive used for mining, ammonium nitrate?

177 Has the Department or Minister sought any advice regarding the potential risks to workers and residents posed by the stockpile of ammonium nitrate?

178	Has the Department or Minister received any advice regarding the potential risks to workers and residents posed by the stockpile of ammonium nitrate?
179	Has the Department or Minister sought any advice regarding potential terrorist risks related to the stockpile?
180	Has the Department or Minister received any advice regarding potential terrorist risks related to the stockpile?
181	Would this stockpile be covered by the National Code of Practice for Chemicals of Security Concern, a voluntary code? <ul style="list-style-type: none"> <li>a. If not, what safety regulations apply to these stocks of ammonium nitrate and are they compulsory or voluntary?</li> </ul>

**ANSWER:**

176. Yes.
177. Both facilities are Major Hazard Facilities and as such are required to submit a safety case to the Regulator (SafeWork NSW) which considers the risks to workers and residents posed by the stockpiles of ammonium nitrate. SafeWork NSW assesses the safety case.
178. Refer to the response to question 177.
179. SafeWork NSW Major Hazard Facility team takes a whole-of-government approach, in that interagency staff are seconded to the team. As such, a representative from the NSW Police Force Counter Terrorism team works within the SafeWork NSW Major Hazard Facility team for the purpose of assessing site security plans.
180. The site security plan includes risk assessment for terrorism.
181. The *National Code of Practice for Chemicals of Security Concern* states in the Introduction: '*Security sensitive ammonium nitrate is subject to state and territory regulations and is not subject to this code*'. However, ammonium nitrate still appears in the list at Appendix A of the Code of Practice. In practice, this is a non-issue, as the Code of Practice is voluntary, and security sensitive ammonium nitrate is subject to many more mandatory requirements in legislation.

When a quantity of ammonium nitrate exceeds the Schedule 11 Work Health and Safety Regulation 2017 threshold, a notification to SafeWork NSW is required (at 2500kg of ammonium nitrate). When the quantity of ammonium nitrate exceeds the Schedule 15 Work Health and Safety Regulation 2017, a major hazard facility licence is required (at 2500 tonne for ammonium nitrate) by way of a whole-of-NSW Government assessment approach, with SafeWork NSW to make the final determination. These requirements are mandatory.

**SafeWork NSW Inspector Activities**

- 182 How many SafeWork NSW inspectors are authorised under Section 126 of the Public Health Act 2010?



- 183 How many SafeWork NSW inspectors are authorised under IPART under Section 5D of the Electricity Supply Act 1995?
- 184 How many SafeWork NSW inspectors are now undertaking activities on behalf of the NSW Building Commissioner?
- 185 How many SafeWork NSW inspectors are authorised to undertake Fair Trading checks?
- 186 In the last six months, how much work are SafeWork NSW inspectors undertaking in relation to regulating the Work Health & Safety legislation and undertaking these other activities noted in 1a to 1e?

**ANSWER:**

182. There 319 SafeWork NSW inspectors authorised under the *Public Health Act 2010* as at 5 November 2021.
183. An IPART authority was issued to Inspectors appointed under the *Work Health and Safety Act 2011* as part of the MOU between IPART and SafeWork NSW which took effect on 1 November 2016.
184. All SafeWork NSW inspectors are able to conduct work with the NSW Building Commissioner as required. Since collaboration commenced (to end September 2021), SafeWork NSW has completed 98 visits as part of the Occupation Certificate Audits process.
185. There are 55 SafeWork NSW inspectors authorised under the *Fair Trading Act 1987*.
186. The question is without context and therefore cannot be answered.

**Workplace safety inspections**

- 187 What information has the Department received from the Minister/Government in relation to the future role of workplace safety and other inspectors in the Better Regulation Division within the Department of Customer Service?
- 188 What information on Ministerial expectations has been shared with inspectors in the Better Regulation Division relating to their ongoing roles? (eg. newsletters, updates, etc)
- 189 Why are the NSW Safework inspectors being referenced to just generalised regulatory authorities that could capture other regulatory authorities?
- 190 What consultation was done with SafeWork NSW inspectors on these changes to the role descriptions?
- 191 What is current minimum requirement for all roles that are given the authority of an inspector within SafeWork NSW?
- 192 Does the Executive Director and Directors within Safe Work NSW who manage and supervise have the Diploma of Government Inspection or the Advanced Diploma of Government Inspection?

<p>193 For managers and directors in SafeWork, how many have undertaken the “on boarding” training, which includes notices (Penalty, Improvement and Prohibition Notices) training that inspectors must complete?</p>
<p><b>ANSWER:</b></p> <p>187. Work health and safety and other inspectors in the Better Regulation Division will continue to play an important role in protecting the NSW community.</p> <p>188. The Department of Customer Service regularly communicates with its staff regarding its priorities and goals..</p> <p>189. SafeWork NSW inspectors undertake specific roles which focus on preventing harm and improving the health and safety landscape in NSW workplaces.</p> <p>190. SafeWork NSW Inspector Role Descriptions are currently being updated and aligned as they had not been reviewed since prior to 2016. Working groups at each classification have been established to review and consultation is occurring with the Inspectorate on any changes.</p> <p>191. All new Inspectors to SafeWork NSW are required to complete the 12 month New Inspector Training Program (NITP) which includes the completion of the PSP50116 Diploma of Government (Workplace Inspection) qualification.</p> <p>192. All relevant substantive managers and supervisors within SafeWork NSW have attained a Diploma of Government Inspection or the Advanced Diploma of Government Inspection.</p> <p>193. All relevant Directors and Managers participate in the SafeWork Inspectorate Continuing Professional Development Program which is aimed at building and enhancing Inspectorate capability and enabling exemplary regulatory services by planning, designing, developing and delivering training initiatives and activities for inspectors and their managers.</p>
<p><b>SafeWork NSW Culture</b></p>
<p>194 How long has SafeWork NSW been trying to implement an online Work Health &amp; Safety Management System for its own staff?</p> <p>195 How much money has been spent in trying to develop an internal online Work Health &amp; Safety Management System? How much of this was internal and how much was spent on contractors?</p> <p>196 Are any changes being made in the agency to address bullying following the inquiry by NSW Parliament into allegations of bullying in SafeWorkNSW?</p> <p>197 Is the Department seeking any changes proposed to the current external referral process for bullying complaints?</p> <p>198 Are those changes in line with the Recommendations arising from the 2013/14 Parliamentary Inquiry?</p> <p>199 What are the results for all bullying responses in the 2019 People Matter Employee Survey for SafeWork NSW?</p>

200  201	<p>What are the peak work health and safety consultative arrangements for SafeWork NSW to consult with its own staff?</p> <p>What support is DCS/SafeWork NSW giving to SafeWork’s own NSW Health &amp; Safety Representatives?</p>
<p><b>ANSWER:</b></p> <p>194. An online work health and safety hazard and incident reporting system was approved in November 2020 and was implemented in October 2021 for the Department of Customer Service (DCS).</p> <p>195. The online hazard and incident reporting system was approved by the DCS Executives and Finance Committee with an agreed spend of approximately \$750,000. The ICT solution is housed internally on the existing SAP environment and in which inhouse support through existing People and Culture staff were utilised to implement the system.</p> <p>196. The <i>Inquiry into Allegations of Bullying in Workcover NSW</i> (Inquiry) was held in 2014. During September 2015, the WorkCover Authority of NSW was replaced by iCare, SIRA and SafeWork NSW. SafeWork NSW is now part of the Better Regulation Division within DCS, which continuously reviews and improves its systems and processes to ensure that it is a safe place to work.</p> <p>197. Yes.</p> <p>198. Yes.</p> <p>199. Due to the broad nature of the question, a detailed response cannot be provided at this time..</p> <p>200. SafeWork NSW has elected Health and Safety Representatives and a Health and Safety Committee with management representation. Matters can also be escalated to the Better Regulation Division Health and Safety Committee and the Deputy Secretary as required.</p> <p>201. SafeWork NSW Health and Safety Representatives are supported by the structure outlined in response to question 200 and further supported by the DCS Safety and Wellbeing team, HR Business Partners, Employee Assistance Program (EAP) as required, the HSR managers, specific HSR team meetings and Senior Executives. This has been demonstrated in regular HSR meetings in which feedback is requested to continuously improve safety and wellbeing within the Department.</p>	
<p><b>Bullying complaints at SafeWork NSW</b></p>	
202  203  a.	<p>In the last 5 years how many bullying complaints has your department as an employer (Person received from SafeWork NSW staff or their HSRs on behalf of their workgroup members?)</p> <p>In the last 5 years has any SafeWork NSW employee suffered a psychological injury as a result of bullying and harassment in the workplace?</p> <p>If so, how many have received workers compensation?</p>

- b. In the last 5 years can you tell me how many SafeWork NSW employees psychological injuries were related to actions from management / Executive?
- c. In the last 5 years has any SafeWork NSW employee self-harmed as a result of perceived bullying and harassment?
- d. Regarding SafeWork NSW employee/s who may have self-harmed, who were they, what was their position, did the self-harm incident/s occur during work hours, what were the circumstances preceding the incident/s?
- e. Did SafeWork NSW undertake investigations in relation to causation of any self-harm incident/s?
  - i. What was the findings of the SafeWork NSW investigation/s into the self-harm incident/s?
- f. What is the SafeWork NSW policy timeframe for resolution of any work health and safety / industrial complaints lodged by employees?

**ANSWER:**

202. 19 during the period 1 July 2016 to 31 October 2021

203. Refer to response to Question 203(a) and (b).

- (a) In the last five years 19 SafeWork employees have lodged a workers compensation claim, with seventeen receiving workers compensation treatment and/or payments.
- (b) There have been 18 claims over the last years which the employee has stated were related to actions by the manager.
- (c) No workers compensation claims have been accepted in relation to self-harm by a SafeWork NSW employee as a result of perceived bullying and harassment.
- (d) Refer to response to 203(c).
- (e) Refer to response to 203(c).
- (f) The Department of Customer Service aims to resolve all work health and safety and industrial complaints as quickly as possible. Resolution timeframe is determined by the complexity of each matter