



4 Byfield Street  
Macquarie Park NSW 2113  
T (02) 9978 3333  
hia.com.au

28 February 2023

SafeWork NSW Review  
Level 5, 60 Martin Place  
SYDNEY NSW 2000

By email: [enquiries@safeworknswreview.com.au](mailto:enquiries@safeworknswreview.com.au)

## Independent Review of SafeWork NSW

The Housing Industry Association (HIA) takes this opportunity to provide comment on the Independent Review of SafeWork NSW (SafeWork) (Review). The Review seeks to examine SafeWork's performance of its regulatory functions (including educational functions) under the *Work Health and Safety Act 2011* (NSW).

HIA is Australia's only national industry association representing the interests of the residential building industry. As the voice of the industry, HIA represents a membership of 60,000 across Australia, with over 16,000 members in NSW alone. Our members are involved in delivering more than 170,000 new homes each year through the construction of new housing estates, detached homes, low & medium-density housing developments, apartment buildings and completing renovations on Australia's 9 million existing homes.

HIA actively takes a leadership role to promote and support a safety culture across the residential building industry and places a high priority on ensuring the residential building industry is committed to the safety of all industry participants.

HIA works closely with SafeWork through a range of forums including the Housing Industry Consultative Committee (HICC). The HICC was established in 2003 and provides an opportunity for the exchange of relevant information between SafeWork and housing industry participants on matters of concern and interest to workers, employers, contractors and Government. Consisting initially of representatives of the HIA and nominated volume homebuilders, the HICC has expanded, by agreement, to include the Master Builders Association (MBA) and a cross section of homebuilders.

HIA is also heavily involved in quarterly engagements with the Better Regulation Division (BRD), who are responsible for developing and implementing regulations for NSW Fair Trading, work health and safety (WHS), building & construction, and consumer protection. Together, we work collaboratively to address and overcome current challenges affecting the industry.

As a key stakeholder in this Review, HIA would like to make the following comments in relation to the Terms of Reference of the Review.

### Compliance and enforcement functions

SafeWork's compliance and enforcement functions appear to be operating effectively and appropriately. The use of a combination of targeted initiatives, 'blitzes' and general engagement with the industry appears to be working well.

HIA would reinforce that as part of any compliance and enforcement activity there should be a focus on education accompanied by a practical response to safety issues.

## **The performance and effectiveness of SafeWork’s educational functions**

### **Educational resources**

HIA consistently shares safety information with members through various communication channels such as HIA’s electronic Regional News and Building News publications. Apart from HIA’s development of its own resources, HIA also ensure that any educational materials and updates from SafeWork are distributed. For example:

- SafeWork’s SafetyCast podcast program.  
These podcasts provide important message for the industry on relevant safety topics and guidance on how to work safely. The podcasts are a useful tool to assist in the training and education of employees and workers. For example, workshops which were designed for Construction Supervisors, Trade Supervisors, Construction Managers, Foreman, Superintendents or a Leading Hand to learn from their experienced team of inspectors about WHS in construction.
- Media releases from SafeWork on a variety of safety topics.  
For instance, information on safety on scaffolds, electrocution (being the second-leading cause of traumatic injuries and fatalities in the industry after falls from heights). SafeWork also collaborated with Dial Before You Dig Australia to increase industry awareness of the requirements for obtaining underground essential services information before businesses carry out any excavation work.

### **Members’ engagement**

HIA consistently invites SafeWork to take the opportunity to present to our members at various HIA events to deliver safety messages and for members to hear firsthand from SafeWork (including their inspectors).

### **Codes of Practice**

Code of Practice play an important role in providing guidance on how workplace health and safety in the industry can be effectively managed on-site.

Codes of practice are meant to provide practical guidelines and solutions for compliance with health and safety laws. With the multiplication of codes over the years, it is important to ensure that these codes do not impose impractical and confusing provisions for compliance, or to impose additional requirements that are not prescribed in the WHS laws.

The recently released Code of Practice for Managing Psychosocial Hazards, provides an example of proactive consultation by SafeWork, while also demonstrating a need for further industry specific information and guidance. This complex and difficult area represents both challenges and opportunities for the residential building industry and HIA would encourage SafeWork to continue to engage with industry to ensure both compliance and positive practical outcomes for person conducting a business or undertaking (PCBUs) and workers.

## **A genuine voice in the complaints, investigation, and enforcement processes.**

Any complaints, investigation, and enforcement processes should respect information that is confidential.

Therefore, a balance needs to be struck between giving all parties, the subject of these processes, an opportunity to understand the matters that are being asked to respond to, while also preserving the privacy and confidentiality of both PCBUs and workers.

This is particularly important for information or advice that was obtained for the purpose of legal advice or for actual or anticipated litigation. The latter reflects the ‘dominant purpose’ test governed by common law and the Evidence Acts in Australia to assess the applicability of privilege.<sup>1</sup> Privilege, however, should not be limited to lawyer professional privilege but also extended to representatives that contain confidential communication.

HIA supports the use of, for example, the National WHS Radar survey to allow workers to share their experiences of health and safety at work. The purpose of this survey was to gather real in-sights from workers who are on the

---

<sup>1</sup> [REDACTED] v The Commissioner of Taxation [1999] HCA 67; Evidence Act 1995 (Cth) ss 118 and 119.

frontline of health and safety in the industry every day. The responses were used to inform new research ideas, policy, and solutions to WHS issues. This is an appropriate way of seeking feedback on workplace safety.

In summary, HIA is pleased to have worked with SafeWork over the years and hopes to do so in perpetuity. HIA looks forward to continuing to support and guide the Government and safety regulators to deliver improved safety on site and drive a shift in the industry's safety culture.

If you would like to organise a meeting or require any further information in relation to this submission, please do not hesitate to contact [REDACTED] on [REDACTED] [@hia.com.au](mailto:[REDACTED]@hia.com.au).

Yours sincerely

HOUSING INDUSTRY ASSOCIATION LIMITED



Executive Director NSW