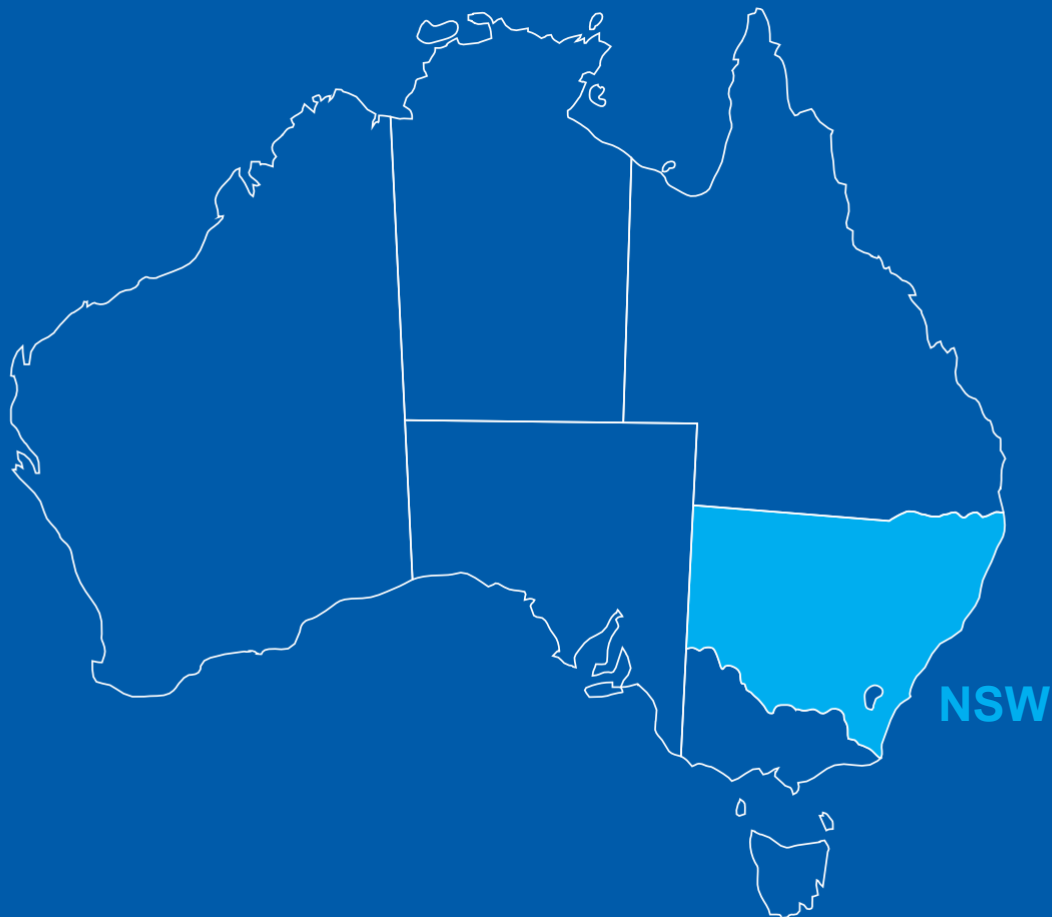


# Submission

## Review of NSW Work Health and Safety Scheme

Feb 2026



## INTRODUCTION

**The National Electrical and Communications Association (NECA) is the peak body for Australia's electrical and communications sector, which employs 359,211 workers and turns over more than \$91bn annually.**

NECA represents over 6,500 businesses performing works including the design, installation, and maintenance of electrical and electronic equipment in the construction, mining, air conditioning, refrigeration, manufacturing, communications, and renewable energy sectors.

NECA provides this submission in response to the invitation made by the committee to provide a submission and advice provided in the media release of the areas of focus for the initial review. NECA and its members are highly engaged in this space, regularly participating in and managing work that is by definition *high risk construction work* and *hazardous work* and subject to specific duties.

NECA also employs hundreds of apprentices a year through our industry Group Training Organisation (GTO) and supports member organisations that employ electrical apprentices. Our Registered Training Organisation (RTO) provides high quality training to electrotechnology and electrical supply industry apprentices at all stages and post-trade training for renewables, accredited connection service providers, metering, and associated technical & WHS training.

NECA has advocated on behalf of the electrotechnology industry for over 100 years and helps its members and its industry to operate in an efficient, safe, and regulatorily compliant manner. NECA represents the interests of electrical and communication businesses to all levels of government and in regulatory, legislative and industry development forums. It is also a foundation member of the Australian Chamber of Commerce and Industry (ACCI).

## Initial comments

NECA have engaged actively with the NSW regulators in recent years in attempts to improve the nature and effectiveness of worker safety regulation in the electrotechnology industry. This has included contributions to regulator led consultations (such as the Supervision Practice Standard for electrical apprentices), and raising issues of concern about regulator performance (such as the triage and information collection for electric shock incidents). At times this has included correspondence to NSW ministers to highlight and address glaring and systemic deficiencies that the relevant departments appear to be unwilling or unable to address.

## Workplace Health and Safety training, education and support for apprentices in the workplace.

Per the identified focus item and specific comments contained in the media release indicating that ‘the committee would like to hear how they (apprentices) are currently trained, educated and supported to understand workplace health and safety practices, and where they can be improved’ - our submission seeks to inform the committee of our observations of the existing frameworks supporting safety of apprentices generally in the construction industry, and specifically in the electrotechnology industry (electrical trade). Some of the commentary is also directly relevant to the effectiveness of regulators in supporting safety for other vulnerable workers that may be exposed to electrical hazards.

### Effectiveness of regulatory frameworks & regulators

The observations NECA and its members of the regulatory responses to WHS for apprentices and licensed trade workers have led us to the conclusion that there is a lack of co-ordination and sophistication in the NSW regulatory framework which ultimately means that opportunities for meaningful enforcement against high-risk employers of apprentices are routinely missed.

Specifically,

#### **Data about WHS interactions**

The methods used by SafeworkNSW to obtain reasonable information and effectively triage notifiable incidents / requests for assistance involving electrical apprentices at the point of initial contact are severely lacking. Many incidents are simply triaged for an administrative response (no inspector allocated) if there is no injury or on-going lost time outcome despite there being obvious failures in WHS duties and observance of licence conditions that have placed apprentices at risk of significant injury or death. (see examples provided in appendix A)

SafeworkNSW's case management system (WSMS) is obsolete and the administrative processes for it inadequate to support the consistent collection, formatting and reporting of critical information about apprentices, trade licenses (supervisors & contractors), and the nature of incidents affecting those workers.

### **Referral and management of suitable matters for disciplinary action against license holders (contractor or supervisor)**

Whilst an MoU exists between SafeworkNSW and the NSWBC to facilitate referral of information about breaches of the WHS legislation to the licensing Disciplinary Action Unit (DAU), the processes are not sufficiently responsive or efficient to identify suitable referrals or ensure disciplinary action occurs in a reasonable timeframe - potentially permitting a poor employer/contract license holder to continue exposing apprentices and other workers to poor WHS and/or supervision practices for many months. (see examples provided in appendix A)

For comparison, of the few outcomes recorded against electrical license holders in NSW for WHS breaches the period between incident and disciplinary outcome ranges from 9 months to 2 years+, whereas the electrical safety office in Queensland targets an investigation report and recommendation within three months of an incident (from a suitably qualified investigator) and a disciplinary outcome (if any) at 6 months determined by a tripartite licensing committee.

### **Involvement of Training Services**

Neither BCNSW, or SafeworkNSW are required to notify Training Services of incidents involving apprentices and typically don't.

Employers are only required to notify Training Services of 'any injury to the apprentice or trainee that adversely affects the apprentice's or trainee's ability to continue or complete the apprenticeship or traineeship'.

As a result, unless Training Services are notified by other means, they do not have visibility of WHS information that may warrant prohibiting a business from engaging or hosting apprentices.

## Culture of the NSW construction industry with respect to apprentice labour

Whilst there are many contractors that understand and strive to comply with their HBA license obligations and WHS duties for apprentice supervision (particularly major contractors & those servicing responsible clients with quality assured systems) there are also many that run business models that rely on utilising apprentices to conduct licensed work unsupervised.

In the absence of effective detection and consequences of wayward contractor behaviour with respect to supervision, the culture of the industry has suffered and the mis-use of apprentices perpetuated into the next generation of business owners by those completing apprenticeships under such poor supervision practices.

NECA's Group Training Organisation (GTO) commits considerable resources to ensure that contractors hosting our apprentices are both aware of the supervision requirements of the trade and apply them diligently with frequent field visits and discussions with each apprentice to provide support and confirm the safe working conduct/habits of the host.

## The inability to apply enforcement action against individual qualified electrical supervisor license holders for failing in their WHS duties.

The WHS Act specifies the duties of workers as

### **28 Duties of workers<sup>1</sup>**

*While at work, a worker must—*

- (a) take reasonable care for his or her own health and safety, and*
- (b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons, and*
- (c) comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person to comply with this Act, and*
- (d) co-operate with any reasonable policy or procedure of the person conducting the business or undertaking relating to health or safety at the workplace that has been notified to workers.*

However, short of a prosecution, there is no mechanism for SafeworkNSW to apply enforcement action to an individual that has exposed themselves to a serious risk by failing to observe the

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<sup>1</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-2011-010#sec.28> (WHS Act)

essential safe work practices of a trade (eg isolation of electrical equipment) and/or critical elements of the safe system of work at a workplace.

This means that it can be apparent that a licensed electrical supervisor (including a nominated supervisor for the purposes of the Home Building Act) has (for example) wilfully disregarded the prohibition on energised electrical work<sup>2</sup>, or instructed an apprentice to ‘test for de-energised’<sup>3</sup> in the absence of a qualified supervisor, or ignored any other strict duty imposed on a PCBU for ‘energised electrical work’<sup>4</sup>, or instructed an apprentice to work at heights without adequate controls<sup>5</sup>, contrary to the regulations and the employers safe systems of work, but escape any form of sanction or license disciplinary action due to the construction of the WHS Act and Regulation to focus on PCBU’s and the reliance of the HBA of an outcome that fits the definition of ‘improper conduct’<sup>6</sup>.

In the absence of a mechanism for SafeworkNSW to issue a notice to an individual for an apparent and material breach of a s28 WHS duty, the ability of the secretary to apply disciplinary action against an incompetent or negligent individual license holder is restricted to what offences may be established under the Home Building Act or other specific acts via their own investigations. This problem needs a remedy if dangerously incompetent/unsafe license holders are to be improved or removed in the interests of safety for apprentices and other workers.

## **The inability to prohibit employers from employing or hosting apprentices for WHS non-compliance related to apprentices.**

The Apprenticeship and Traineeship Act provides the commissioner (for Vocational Training) with the ability to prohibit<sup>7</sup> an employer from employing an apprentice or trainee (including under a host employment arrangement). However, this is enacted only by the complaints about the employers conduct in relation to their duties under the act and failures to the obligations under the apprenticeship or traineeship agreement – which does not mandate the provision of a safe work environment.

Nor is an employer of an apprentice required to notify Training Services of enforcement action or notices applied to them as they relate to apprentices in their workplace - only of ‘any injury to the

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<sup>2</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2025-0440#sec.154> (WHS Reg)

<sup>3</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2025-0440#sec.155> (WHS Reg)

<sup>4</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2025-0440#ch.4-pt.4.7-div.4> (WHS Reg)

<sup>5</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2025-0440#sec.79> (WHS Reg)

<sup>6</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-1989-147#sec.51> (s51(1)(b)or(d) of the HBA Act)

<sup>7</sup> <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2001-080#sec.53>

apprentice or trainee that adversely affects the apprentice's or trainee's ability to continue or complete the apprenticeship or traineeship<sup>8</sup>

A mechanism is required to enable Training Services to receive, consider and act on information referred from SafeworkNSW about employers that employ apprentices and have a poor record of interactions, are considered high risk, or are convicted of failing in WHS duties relevant to apprentices.

## Rates of license disciplinary action in the electrical contracting industry in NSW and appropriate communication of outcomes

NECA has collected 3 years of information of applied disciplinary (for all matters) for the trades of electrician, air-conditioning mechanic, and refrigeration mechanic a via informal GIPA requests. In total, there appears to approximately 12 investigations leading to approximately 19 disciplinary outcomes. This includes outcomes such as reprimands, fines, suspensions, cancellations, and license conditions.

It is difficult to determine how many of the investigations relate directly to safety contraventions as the description of the behaviour leading to each outcome is redacted, however there appears to be less than 5 over the three-year period.

Two of these examples are described in Appendix A to this submission, which provides three examples of incidents affecting apprentices from the electrical trade. Each case demonstrates how SafeworkNSW systems have failed to respond appropriately to the obvious endangerment of apprentices and the deficiencies in the referral process to the BCNSW.

By comparison, information obtained from the Queensland regulator over a 16 month period indicates approximately 100 instances of disciplinary action against electrical license holders of which,

- 6 were associated with a **Serious electrical incidents**
- 60 were associated with a **Person receiving an electric shock**
- 9 were associated with **Disconnection required because of serious defects or immediate electrical risk to persons or property**
- 2 were associated with **Significant property damage**
- 11 were associated with **Matters involving young workers and electrical apprentices**

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<sup>8</sup> <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2001-080#sec.15>

- 5 were associated with Repeat offenders (in relation to the above or equally culpable matters)

The purpose for outlining the above information is to illustrate the need in NSW to detect errant safety behaviour of those businesses and individuals privileged to hold a license and take appropriate action to improve or remove them. This is particularly important in the electrical trades, where apprentices are potentially exposed to several deadly hazards on a daily basis and are reliant on the work practices and diligence of their employers and supervisors to ensure controls are applied and understood.

Similarly, the communication of disciplinary outcomes to electrical license holders in NSW is insufficient to deter errant behaviour. Whereas in Queensland a monthly newsletter to electrical license holders articulates what actions have been applied and why in the previous period. The Queensland newsletter typically advises of 5-15 real outcomes per month involving fines, suspensions, cancellations and training orders.

## Summary

The lack of sophistication and co-ordination between NSW regulators with respect to detecting, obtaining and utilising information to hold employers and individual license holders accountable for compromising apprentice safety is contributing to the ongoing levels of apprentice injuries and poor completion rates. In the electrical trade, is simply not credible to suggest that rates of electrical incidents warranting investigation and electrical licence enforcement outcomes are effectively two orders of magnitude different between the two jurisdictions.

The data collection and information systems of SafeworkNSW are ineffective in procuring and organising information in ways to adequately detect opportunities to support and prioritise apprentice safety.

The referral process to notify the NSW Building Commission of improper WHS conduct on behalf of license holders is ineffective in delivering actionable evidence and the DAU processes themselves are not producing timely and appropriate actions against license holders for serious, blatant, and obvious WHS failures with respect to apprentices. (improper conduct in the HBA) It is simply unacceptable that individual electrical license holders can disregard fundamental safety requirements of the trade, cause an incident exposing apprentices to harm, and be effectively immune from enforcement actions due to the ineffectiveness of the relevant regulators.

Referrals from SafeworkNSW should reasonably be able to provide structured and immediately actionable evidence to the Building Commission of

- qualified supervisors that
  - fail to comply with any requirements applicable to the work made by or under *the WHS Act/Reg* in respect of the work<sup>9</sup>, or
  - has control (nominated supervisor<sup>10</sup>) over the carrying out of (the work) ... and fails to ensure that the requirements applicable to the work made by or under *the WHS Act/Reg* are complied with<sup>11</sup>,
- the holder of a contractor license that
  - 'aids or abets, or is knowingly concerned in any way in, the doing of any thing by another person (in connection with the work) if the thing done ... constitutes improper conduct on the part of the person who did it'<sup>12</sup>

including as they relate to apprentices under their direction.

Similarly, the interactions of SafeworkNSW with PCBU's employing apprentices should inform Training Services about high-risk behaviour associated with apprentice employers to prevent exposing more apprentices to poor WHS practices.

## Recommendations for the consideration of the committee –

1. SafeworkNSW implement a process requiring the submission of an incident report in writing following the initial notification of an incident,
  - a. by the employer or host employer of an apprentice affected or involved in an incident, and
  - b. specific categories of incident

**Note 1** : SafeworkNSW already has the authority to require this under s38 ss 4 & 5 of the WHS Act.

### **38 Duty to notify of notifiable incidents...**

- (4) A person giving notice by telephone must—
  - (a) give the details of the incident requested by the regulator, and
  - (b) **if required by the regulator**, give a written notice of the incident within 48

<sup>9</sup> s51(1)(b) of the Home Building Act - <https://legislation.nsw.gov.au/view/html/inforce/current/act-1989-147#sec.51>

<sup>10</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-1989-147#sch.1-sec.1>

<sup>11</sup> s53(1)(a) of the Home Building Act - <https://legislation.nsw.gov.au/view/html/inforce/current/act-1989-147#sec.53>

<sup>12</sup> s52(a) of the Home Building Act - <https://legislation.nsw.gov.au/view/html/inforce/current/act-1989-147#sec.52>

hours of that requirement being made.

(5) A written notice must be in a form, or contain the details, approved by the regulator.

**Note 2** : The NSW mines safety regulator already utilises this provision for all reportable incidents as it is mandatory in that Act.

2. Create a mechanism for SafeworkNSW inspectors to document apparent and material contraventions by individuals of their s28 duties that have/could expose others to serious risk to their health and safety. (a penalty notice outcome would be one option)
  
3. SafeworkNSW
  - a. identify and train inspectors with the requisite knowledge to
    - i. review information obtained from written standardised incident reports involving apprentices and/or referred to them by other inspectors, and
    - ii. determine if a referral for disciplinary action against a HBA license or to Training Services is appropriate.
    - iii. act on those determinations by compiling adequate referral material, making the referral, co-ordinating with the other agencies, and recording the details in an appropriate register.
  - b. establish an apprentice safety advocate capable of assisting apprentices and/or concerned family members with workplace safety enquiries, collate and report on incident information with respect to apprentices, and liaise with Training Services about potential prohibitions for high-risk employers.
  - c. establish an information sharing protocol with Training Services with respect to reportable incidents involving apprentices.
  
4. Examine the reasons for the lengthy timeframes taken by the NSW Building Commission to investigate and apply disciplinary action for referred WHS matters amounting to 'improper conduct'.

## Role of Health and Safety Representatives

NECA supports the concept and role of HSR's in the WHS legislation and their value they can bring to the identification and management of hazards in the workplace. We do however, wish to identify issues and make suggestions with respect to the application of the consultation provisions and the identification of work groups for the purposes of electing HSR's at Group Training Organisations (GTO's).

Specifically, NECA Group Training (NECAGT) has recently been the subject of requests by apprentices and a representative union to establish workgroups and representative HSR's for the population of apprentices employed by this entity.

NECA's position in discussions with the nominated union and SafeworkNSW has been that the purpose of WHS consultation is to ensure that workers are able to raise concerns, identify hazards, and manage risks as they apply to their workplace. NECA's further position is that the most appropriate avenue for hosted apprentices to participate in such consultations is via the arrangements in workplaces where they perform work and where they are potentially exposed to hazards. We see the role of the GTO as primarily associated with the s46 duty to consult with the other duty holders (the host employer) to ensure their safety systems, supervision, and consultation arrangements are appropriate for the needs of the apprentices and otherwise compliant with requirements of the WHS legislation.

NECA's GTO provides further support for its apprentices by ensuring that they are aware of the ability for them to contact their allocated field officer or apprentice manager if they need advice, support, or wish to raise a workplace concern about WHS matters via an alternative path. Despite these discussions the assistance of SafeworkNSW was sought and NECAGT was asked to identify 'workgroups', conduct elections of HSR's and arrange for the training of those HSR's. In all of these elements, NECAGT complied with directions and advice of the regulator which also found itself bound to compliance with the Act.

However, the obvious problems arise, in that

- the HSR's are unfamiliar with most of the workplaces in which the members of 'their' workgroups work.
- they are not recognised by the host employers for the purposes of consultation or participation in incident investigations on their sites and can really only consult with

NECAGT with respect to the activities of NECAGT

- the involvement of such a HSR in matters away from their host employer is not an element that is accommodated by their training contract
- by its nature the HSR's that are elected typically cease employment with the GTO within a year or two and the cycle has to repeat (if there is interest in doing so)

Registered GTO's are already heavily regulated and audited<sup>13</sup> to secure successful and safe completion of training.

This distinction has been recognised by SafeworkNSW in their publication "A Guide for Labour Hire Workers, Group Training Apprentices and Trainees", in which they confirm the GTOs' responsibilities to apprentices as:

- provide you with a WHS induction before you start
- assess the placement before you start work
- monitor the workplace
- consult with you and the host PCBU on WHS matters

And the Host Employer, who controls the worksites as including:

- take reasonable steps to ensure risks are eliminated or are effectively managed as far as is reasonably practicable
- monitor and review the effectiveness of measures to protect you while you are working

For these reasons NECA strongly suggest that registered GTO's be exempt from the requirement to facilitate HSR's for apprentices or trainees if they are able show

- i. how they comply thoroughly with their s46 duty with host employers, and
- ii. how they provide additional support to apprentices or trainees for WHS concerns arising from their placement with a host employer.

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<sup>13</sup> <https://content.apprenticeships.gov.au/sites/default/files/2023-11/National%20Standards%20for%20GTOs.pdf>

## Appendix A – Notable incidents and commentary

Safework (Ref)	Incident description and response
2- [REDACTED]	<p>In early/mid 2023 a young ‘trades assistant’ received an electric shock whilst performing electrical work, installing a new GPO socket outlet at a building managed by a local government entity.</p> <p>The employing entity was an electrical contractor engaged by the local government authority to perform electrical and communications work.</p> <p>The local government authority notified SafeworkNSW of the incident and the description indicated that the injured person (IP) was under the supervision of a ‘junior worker’.</p> <p>Safework NSW triage</p> <ul style="list-style-type: none"> <li>- initially triaged this incident as a Category 4 – (non-inspector response)</li> <li>- no attempt was made to identify the presence of a licensed supervisor or contractor authority #'s</li> <li>- the triage process failed to identify the responsible contractor entity</li> <li>- an admin response letter was drafted for issue to the local government authority</li> <li>- the triage outcome was revised at the insistence of an internal electrical specialist and assigned to a suitably qualified SafeworkNSW inspector</li> </ul> <p>Investigations revealed that</p> <ul style="list-style-type: none"> <li>- the local govt entity had undertaken a thorough investigation of the incident</li> <li>- the IP was being ‘supervised’ by a 2nd year apprentice on the day of the incident</li> <li>- the PCBU had not ensured that a licensed person had proven the equipment de-energised before work commenced or locked the relevant breaker to ensure that it couldn’t be re-energised.</li> </ul> <p>Outcomes</p> <ul style="list-style-type: none"> <li>- Fines and other notices were issued by the SafeworkNSW inspector</li> <li>- The PCBU/Contractor was referred to the Building Commission for potential disciplinary action against the license holder(s) (mid 2023)</li> <li>- The license holder was reprimanded and fined by the Building Commission and had license conditions applied (Early-Mid 2024)</li> </ul> <p><b>Commentary –</b></p> <ol style="list-style-type: none"> <li>i. The SafeworkNSW triage process failed to detect obvious and serious breaches of the WHS regulation in an initial notification.</li> <li>ii. Without intervention, the serious license mis-conduct would not have been referred to the Building Commission.</li> <li>iii. Action for such serious mis-conduct (explicit offences under the WHS Act) should not have to wait approximately 9 months to be applied by the secretary after referral.</li> </ol>
2- [REDACTED]	<p>In mid 2023 SafeworkNSW received a notification from a PCBU indicating that a worker had been injured whilst performing work alone on the electrical equipment associated with Air Conditioning units at a commercial premises.</p> <p>The injured person had received an electrical shock and a head injury acquired whilst stumbling away from the shock</p> <p>Safework NSW triage</p> <ul style="list-style-type: none"> <li>- failed to check that the injured person was licensed to perform electrical work/isolate electrical equipment or was being supervised by someone who was (as required by the regulations)</li> <li>- triaged the incident as a Category 4 – (non-inspector response) presumably on the basis of no ongoing treatment of injury</li> </ul> <p>In the absence of an inspector response, no further enquiries were made by SafeworkNSW of the PCBU to confirm particulars.</p> <p>The matter was referred (Mid-late 2023) to the Building Commission by an internal SafeworkNSW electrical specialist after having reviewed the regular monthly report of incidents triaged as Cat 4. The review identified that the IP was not licensed and therefore there were probable breaches of the Home Building Act in addition to obvious failures in WHS duties.</p> <p>Outcomes</p> <ul style="list-style-type: none"> <li>- the disciplinary action unit conducted an investigation for HBA license breaches</li> <li>- Fines, license suspension, and license conditions applied to relevant person and entities for breaches of the HBA and other offences. (Sep 2025)</li> </ul> <p><b>Commentary –</b></p> <ol style="list-style-type: none"> <li>i. The SafeworkNSW triage process failed to detect obvious and serious breaches of the WHS regulation in an initial notification.</li> </ol>

## Appendix A – Notable incidents and commentary

- ii. Without intervention, the serious mis-conduct would not have been referred to the Building Commission at all.
- iii. In the absence of SafeworkNSW enforcement action (likely penalty notice(s)). The Building Commission had to undertake extensive and lengthy investigations to establish misconduct and/or via other associated offences. Resulting in a period of 2 years between the incident and a disciplinary outcome.

1- [REDACTED] In early 2024, a first-year apprentice suffered a severe electric shock while working in a roof space in western sydney participating in electrical work. There was no notification provided by the PCBU to SafeworkNSW at the time of the incident. In the days after the incident, the apprentice sought medical assessment / assistance associated with post-shock physical affects he believed he was experiencing. A request for service was made to SafeworkNSW several days after the incident and was triaged for an inspector response. An electrically qualified inspector was asked to assist based on the nature of the incident. Enquiries revealed that there was no licensed supervision on site and the work was being 'supervised' by other apprentices.

### Outcomes

- The PCBU was fined for non-notification of a reportable incident
- Some notices were issued to the PCBU to improve compliance
- The electrically qualified inspector recommended that the incident itself be fully investigated (a precursor to prosecution)
- The 'Independent Decision-Making Panel' (IDMP) process apparently didn't accept the recommendation
- There doesn't appear to have been a referral of the Electrical contractor to the Building Commission for disciplinary action at all (at least action has not been recorded as at 22 Dec 2025)

NECA understands that the IP left his apprenticeship shortly after the incident. The contractor involved has apparently had further interactions / incidents involving apprentice safety since this incident.

### Commentary –

- i. The nature of the original incident is such that, prima facie, a serious offence has occurred under the WHS Act that has exposed an apprentice to a serious risk of death. It appears that it was only by luck that this didn't happen at the time or in the following days.
- ii. The absence of a prosecution for license sanctions for an incident of such seriousness and obvious negligence with respect to safety in this trade contributes substantially to an attitude of complacency toward the regulator(s). Indeed, the opportunity to educate and/or deter others from treating supervision and electrical safety duties in a similar fashion is lost.

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