SafeWork NSW

National Competition Policy Analysis 2025
Productivity Commission
Locked Bag 2, Collins St East
MELBOURNE VIC 8003
By email: ncp@pc.gov.au

Re: SafeWork NSW submission on the Productivity Commission's National Competition Policy Analysis 2025 Critical Sign Date: 13 June 2025

Dear Danielle Wood,

SafeWork NSW appreciates the opportunity to contribute to the Productivity Commission's National Competition Policy analysis 2025.

SafeWork NSW is the state's primary work health and safety regulator, committed to reducing work-related fatalities, serious injuries, and illnesses. Our functions are set out in the *Work Health and Safety Act 2011* (NSW), including advising the Minister on work health and safety matters, monitoring compliance, providing advice, and publishing statistics.

Our submission is made in accordance with the guidelines outlined in the Productivity Commission's Call for Submissions and draws on SafeWork NSW's regulatory expertise and frontline experience in licensing and workplace safety. We understand that our submission will be treated as public unless otherwise indicated and agree to the terms of confidentiality as specified.

SafeWork NSW is committed to ensuring that workplace health and safety regulations support a competitive and innovative economy. We look forward to continuing our engagement with the Productivity Commission and other stakeholders to achieve these objectives.

If you have any questions regarding this submission, please contact Clarence Brown, Director Policy, Practice and Programs.

Yours sincerely,

Trent Curtin

A/Deputy Secretary
SafeWork NSW

1. Occupational licensing

SafeWork NSW (**SWNSW**) administers licences under the *Work Health and Safety Regulation 2017* (NSW) (**WHS Regulation**) for high-risk work, asbestos removal and assessment and demolition work. SWNSW also administers 'White Cards' for general construction induction and the 'Traffic Control Work Training Card', which are not formally referred to as licenses under the WHS Regulation. SWNSW also administers the *Explosives Regulation 2024* (NSW), which governs the handling of explosives and explosive precursors, including licensing and security clearance requirements.

a. Which occupations would be best-suited to a national licensing scheme?

Based on operational experience, the following areas of work may benefit from national licensing, noting the relevant considerations and potential challenges outlined in the other sections below:

Type of Work	Feedback
Demolition	National harmonisation would reduce confusion and administrative burden for individuals who commonly hold both demolition and asbestos removal licences. While asbestos licences are recognised under the Automatic Mutual Recognition Scheme (**AMR Scheme**) and corresponding WHS laws (all Australian jurisdictions except Victoria), demolition licences still require application through the Mutual Recognition Scheme (**MR Scheme**). NSW has supervision and training requirements for demolition licences that would need to be considered for national licensing.
Traffic Control Work	Other jurisdictions do not always issue traffic control licences under WHS legislation, meaning these are not recognised under AMR. National licensing would streamline recognition and benefit licence holders moving between states.
Explosives	A national scheme may ease administrative burden associated with mutual recognition. However, past harmonisation efforts have faced challenges, particularly regarding differences in minimum security clearance requirements between jurisdictions. This is discussed in more detail at 1.c. in our submission. NSW did not support including explosives licensing under the AMR for this reason. Comprehensively addressing these barriers would be a critical step before a national licensing scheme for explosives could be supported.

b. What would be the first steps towards a national licensing scheme for selected occupations?

A successful national licensing scheme would require:

A central coordinating authority to engage regulators and stakeholders;

Harmonised core components, including:

- o Licence classes and permitted work scope;
- o Training and assessment requirements to obtain a license;
- o Applicable technical codes;
- o Security clearance protocols (especially for high-risk areas like explosives).

Additionally, the following implementation support would be crucial:

- A **national licensing database** for verification and renewals;
- **Training resources** for regulators and licence holders;
- **Cross-jurisdictional enforcement protocols**, enabling consistent compliance and disciplinary responses.

Existing national schemes, such as the licensing of dangerous goods vehicle drivers, could offer valuable implementation lessons.

c. **Why did previous attempts at a national licensing scheme, such as the National Occupational Licensing Scheme, fail? How could a renewed attempt overcome the barriers to a national licensing scheme?**

In SWNSW's experience, previous schemes like the National Occupational Licensing Scheme faced challenges due to insufficient harmonisation of:

- Licence classes and conditions;
- Compliance and enforcement mechanisms;
- Security clearance requirements;
- Definitions and permitted substances under explosives and dangerous goods regulations.

Failed attempts at harmonising explosives regulations in Australia offers insights into challenges that need to be overcome with barriers that need to be overcome. Explosives legislation is not harmonised in the way that WHS laws are based on national model laws.

Key issues identified through explosives regulation harmonisation attempts:

Issue	Consequence
Inconsistent licence classes and permissions	May lead to misuse of more permissive interstate licences.
Enforcement powers	Under current national licensing schemes (MR and AMR), SWNSW cannot act on breaches by interstate licence holders, for example suspension or cancellation of the license, unless the breach violates their home jurisdiction's rules. Further, where an individual holds licenses in more than one jurisdiction, current national licensing schemes may be utilised to continue operating in a state where their license has been cancelled, if they still have that license in another state.
Lack of knowledge of NSW specific legislation and license conditions.	Increases risk of non-compliance with NSW-specific conditions. This is particularly problematic with location-specific regulation like prohibited road routes, road tunnel

	regulations, the presence of a separate mining regulator, etc.
Security check disparities	NSW has more stringent requirements than some other jurisdictions. Mutual recognition of licences without aligned security clearances could introduce safety risks.
Differences in chemicals classed as '<u>security sensitive dangerous substances</u>', which requires a separate license	Enables access to dangerous substances not classified as 'security sensitive' in other jurisdictions. For example, ammonium nitrate is regulated in all states except the Northern Territory, creating a gap in national controls.
Jurisdiction shopping	Applicants may target jurisdictions with lower barriers, leading to uneven regulation nationally.

Some of the above issues may be mitigated by aligning with the contractor/operator model used in Queensland and Western Australia for pyrotechnician licences. These jurisdictions separately license employers and workers, and employers may be more capable of monitoring and ensuring compliance with multiple jurisdictions.

d. What benefit would a national licensing scheme provide over an expansion of the automatic mutual recognition scheme?

A national licensing scheme may be an opportunity to address the following challenges experienced under the AMR Scheme:

Issue	Explanation
Variable participation and responsiveness	Not all jurisdictions use the AMR platform. SWNSW has experienced a lack of responsiveness from other jurisdictions when attempting to verify the currency of license holder details.
Customer confusion from AMR automatic correspondence	AMR correspondence can be unclear, increasing regulator workload due to increased emails, calls and reworks.
Administrative burden	SWNSW has had to input its own resources into managing AMR-related processes, including follows ups with other jurisdictions that causes rework.
Compliance limitations	WHS regulators lack authority to enforce licence conditions across borders under AMR. Under the model WHS regulations, a WHS regulator does not have the power to undertake or direct another regulator to undertake, disciplinary action against licence holder where the licence was issued in another jurisdiction.

Information sharing	There needs to be adequate mechanisms to ensure timely and accurate information sharing, including ensuring jurisdictions are party to information sharing agreements through an agreed medium.

Even with improved national alignment, certain structural barriers may remain, including the need for jurisdictions to retain the flexibility to respond to localised risks and the specific needs of their industries and communities.

e. **How could the PC best quantify the benefits of a national licensing scheme?**

The following metrics could be used:

- Worker and business mobility indicators (e.g. interjurisdictional workforce data).
- Cost-benefit analysis comparing administration under AMR vs national licensing.
- Reduction in duplicated licence applications and verifications.
- Incident and injury rates before and after national licensing adoption.
- Efficiency gains for regulators and licence holders (e.g. reduced response time).

2.   International standards

SWNSW supports harmonisation with international standards where it improves regulatory clarity, facilitates trade, and reduces compliance costs — provided it does not compromise local safety outcomes.

SWNSW enforces the following NSW legislation, which refer to and require compliance with certain codes and standards:

- *Work Health and Safety Regulation 2017*
- *Explosives Regulation 2024,* and
- *Dangerous Goods Transport Regulation 2022*

While harmonisation with international standards can reduce complexity, care must be taken to avoid unintended regulatory gaps and heightened risks. Australian-specific risks, industry contexts, and legislative frameworks must remain central in any reform effort.

a. **Are there examples of Commonwealth, state, territory or local government regulation where there should be greater harmonisation with international or overseas standards and related conformity assessments or approvals? What sectors should be prioritised for reform?**

   Harmonisation with international or overseas standards may be easier to achieve for the adoption of fundamental principles and concepts but may not be practical in relation to operational codes and standards.

   For example, standards for dangerous goods and explosives are consistent with international codes for fundamental concepts and classifications. However operational codes, such as those for transport and storage, full harmonisation is less critical due to Australia's unique operational context, including differences in:

   - Transport infrastructure (e.g. road quality, vehicle length restrictions),
   - Geographic conditions (e.g. long distances, remote access), and
   - Legislative and cultural factors (e.g. stricter controls on explosives than some international counterparts).

   Static storage of dangerous goods (which occurs within a single jurisdiction), in particular, generally does not benefit from international alignment, making harmonisation in this area a lower priority.

   Reform efforts should therefore prioritise areas where harmonisation supports cross-border movement, import/export efficiency, and regulatory clarity for multinational businesses, while ensuring Australian-specific risks and legal frameworks remain central to the design.

b. **What is the impact of a lack of harmonisation (e.g. on compliance costs for export, import or multinational businesses, product range, prices, quality, competition, innovation and international trade and investment)?**

Based on SWNSW's experience in regulating crystalline silica, lack of harmonisation can:

- increase compliance burden for importers and exporters;
- create confusion around standards not recognised or testable overseas.

For example, Australia regulates Tripoli as part of 'crystalline silica' under the WHS Regulation. This differs from international practice, leading to:

- inability of overseas companies to provide relevant test data for engineered stone,
- regulatory uncertainty for both companies and enforcement agencies, and
- inefficiencies in compliance and enforcement due to unavailable or non-standard data.

c. **What are the barriers to greater harmonisation? – For sectors where regulators can mandate standards by incorporating international standards as in force from time to time or accept overseas conformity assessments and approvals (e.g. road vehicles, therapeutic goods, agricultural and veterinary products, maritime, industrial chemicals and, most recently, consumer products), how is this operating in practice?**

Based on SWNSW's regulatory experience, the following may be barriers to harmonisation:

- Need for alignment with local legislation and regulatory goals.
- Difficulty updating laws to incorporate international standards "as in force from time to time".
- Resource-intensive peer review and scientific validation of international standards.
- Limited capacity for smaller regulators to assess and accept international conformity assessments.
- Variability in risk profiles between jurisdictions (e.g. transport conditions, climate).

For example, the standards for the transportation of dangerous goods address risks associated with transportation over longer distances and in harsher environmental conditions. These same risks may not be present in other international jurisdictions, leading to difficulties in harmonising standards.

d. **Are there any reforms that should be made to Australia's standards and conformance infrastructure to support greater harmonisation while still addressing specific Australian risks and objectives? – What measures could support access to international standards incorporated in Australian regulation?**

SWNSW sees the following opportunities for reform that could support better harmonisation without compromising the regulatory autonomy required to manage distinct Australian conditions:

- **Improve access to standards:** Many Australian Standards are commercial products and are not freely available—even when referenced as mandatory under legislation.

  There should be commitment to making mandated technical standards freely accessible. This would reduce barriers to compliance, particularly for small and medium enterprises, and facilitate alignment across jurisdictions and with international practice.

- **Government-issued technical guidance:** Where international standards are not a perfect fit for Australian risks, regulators should publish clear, publicly available technical guidance tailored to local contexts. This ensures clarity and consistency while retaining the flexibility to address Australia's specific WHS conditions.

- **Enable legislative flexibility for standard adoption:** Existing legislative frameworks often require standards to be fixed at a point in time, limiting the ability to incorporate updates to international standards "as in force from time to time." Regulatory frameworks should allow for the more dynamic adoption of international standards, with appropriate safeguards and review processes.

- **Promote regulator collaboration in standard development:** Active participation in international and regional standards bodies (e.g. ISO, IEC) would ensure Australian regulators can shape global standards and ensure domestic concerns are represented.

- **Support for risk-based harmonisation:** Harmonisation should not require uniformity across all sectors. Instead, regulators should prioritise alignment in high-impact areas—where the benefits of harmonisation (e.g. efficiency, market access, safety outcomes) outweigh the risks or costs of divergence.

3. Other competition reform options

a. Which sectors or policy areas need reform to further promote competition?

SWNSW recommends further examination of:

- **Training and qualifications frameworks**: Greater national consistency in WHS-related training would improve workforce mobility and reduce duplicative training requirements across states.

- **WHS regulator cooperation protocols**: Enhanced cross-border enforcement and information-sharing arrangements would improve regulatory efficiency without compromising jurisdictional autonomy.

Conclusion

SafeWork NSW supports a carefully developed national licensing framework that maintains high safety standards while improving workforce mobility and regulatory consistency. Similarly, harmonisation with international standards must account for Australia's unique safety, environmental and legislative context. We welcome the opportunity to continue supporting reforms that promote productivity, safety, and clarity for businesses and workers.