

Recommendation	Board's Response	
Enabling Factors (recommendations 1 - 26)		
1	<i>The Regulator/Chief Executive Officer should review and revise as necessary the organisational structure to take into account the recommendations in this report.</i>	Supported.
2	<p><i>The Regulator/Chief Executive Officer should, as soon as is reasonably practicable following the finalisation of the organisational structure, ensure that the following documents are in place:</i></p> <ul style="list-style-type: none"> <i>• a document providing a description of the organisational structure, roles and responsibilities and reporting requirements within it; and</i> <i>• position descriptions (or similar) for all roles, including reporting requirements and accountabilities.</i> 	Supported.
3	<p><i>The Regulator and the Department of Justice should make a request for a further budget allocation to fund the increased costs of the Regulator and WorkSafe Tasmania in providing for an increase in numbers of personnel and for the implementation of other recommendations in this report.</i></p> <p><i>The Department of Justice should also consider the funding of non-recurring and short term costs of adopting the recommendations in this report from the WST Trust Fund established by the Department for the promotion of workplace health, safety and wellbeing.</i></p>	Supported.
4	<p><i>The Regulator and the Government should consider sources of funding that are alternative to or supplement the funding of the Regulator and WorkSafe Tasmania, including but not limited to:</i></p> <ul style="list-style-type: none"> <i>• fee for service arrangements for training and advice; and</i> <i>• the imposition of a levy or other charge on duty holders representing recovery of the cost of enforcement activities specific to them.</i> 	Noted. Additional fees or levies on duty holders are not supported at this time.
5	<i>The Government should consider amending section 262 of the WHS Act to enable a court to order an offender to pay all or a part of a monetary penalty to the Regulator.</i>	Noted.
6	<i>The Regulator should ensure that all currently budgeted but unfilled inspector positions are filled as soon as reasonably practicable.</i>	Supported.
7	<p><i>The Regulator appoint additional inspector positions for a period of two years to be allocated as follows:</i></p> <ul style="list-style-type: none"> <i>• Southern region – 3 additional inspectors;</i> <i>• Northern region – 2 additional inspectors;</i> <i>• North West region – 1 additional inspector;</i> 	Supported.

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	<ul style="list-style-type: none"> • Mines inspectorate – nil additional; and • ADG Unit – 1 additional inspector. <p>A review of workload should be undertaken after the implementation of our recommendations relating to processes, training and task allocation, and not later than late 2020, to determine the required number and allocation of inspectors on a permanent basis.</p>	
8	<p>The Regulator, in consultation with the Team Leaders, should consider the feasibility of a process for the rotation of inspectors around the workplaces within each region to limit the risk or perception of regulatory capture.</p> <p>Formal processes should be implemented for the review of inspector activity to provide further for the identification, or minimising risks or perceptions, of regulatory capture.</p>	Noted. This recommendation is an operational issue for the Regulator.
9	<p>The Regulator should consider the feasibility of dedication of inspectors to specific industries or hazard areas, within each region and shared between regions. This may be deferred, or reconsidered, after assessing the workload, skills and processes after implementation of relevant recommendations in this report.</p>	Noted. This recommendation is an operational issue for the Regulator.
10	<p>The Regulator should allocate specific inspectors in each region – determined by aptitude and attitude – to the investigation of incidents. Subject to workload, those inspectors would also undertake other inspector activities. If specific inspectors are dedicated to investigation, they should be provided with advanced training to enhance their investigation skills. The dedicated investigators should work with inspectors of the mines inspectorate in the investigation of incidents.</p>	Noted. This recommendation is an operational issue for the Regulator.
11	<p>The Regulator/Chief Executive Officer should commission a review of the activities of administrative and support staff to determine and implement changes to ensure:</p> <ul style="list-style-type: none"> • the staff provide optimal support for the Inspectorate – activities and responsiveness; • support staff activities lessen the administrative workload of inspectors where possible; • optimal efficiency is achieved (for example through cycle time reduction or similar exercises); • the staff are provided with processes and resources to enable them to fulfil their functions; and • there are sufficient numbers of support staff to effectively carry out such activities. 	Noted. This recommendation is an operational issue for the Regulator.
12	<p>The Regulator should develop and publish a formal stakeholder engagement plan that identifies at least at a high level with whom the engagement will occur, how it will occur, the frequency and the subject matters. The plan should recognise opportunities for the Regulator to partner with industry and union organisations in training initiatives, information dissemination and public messaging.</p>	Supported.

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13	<i>The Regulator/Chief Executive Officer should arrange for the WorkSafe Tasmania website to be reviewed and further information placed on it as soon as reasonably practicable. One of the benefits of harmonisation is that the regulators can share information and this should be pursued. Further links to information on other sites, such as the Safe Work Australia website, may also be useful.</i>	Supported.
14	<i>The Regulator should consider whether WHS advertisements by other regulators may be useful in Tasmania and made available by the other regulators for use, both to inform the community and to raise the profile of WorkSafe Tasmania. Such advertisements may include the duties, the compliance and enforcement role of the Inspectorate, and specific hazard and risk areas (e.g. bullying, young and inexperienced workers). The cost of running these advertisements will have significant funding implications that will need to be taken into account, with the WHS Trust Fund being considered an appropriate source of funding.</i>	Supported, noting that public WHS campaigns are typically a joint initiative between the Board and the Regulator.
15	<i>The Regulator/Chief Executive Officer should finalise current work on processes and documents to provide a settled system for implementation with the assistance of a change manager and training manager (recommended elsewhere). Further modifications or additions to the system should at present be limited to that which is necessary to overcome significant deficiencies that are identified.</i>	Whilst noting that the setting of investigation and inspection procedures is a matter for the regulator the Board supports the work done to date to uplift capability of the inspectorate in this area and the continued implementation of the nationally consistent workplace inspection and incident investigation practices.
16	<i>The Regulator/Chief Executive Officer should, with the assistance of the change manager, ensure that processes are in place to monitor the implementation of new processes and documents, both across WorkSafe Tasmania and by individual inspectors and members of staff. This should include monitoring and enforcing compliance with directions given as Chief Executive Officer and directions given as the Regulator pursuant to section 162 of the WHS Act.</i>	Supported.
17	<i>The Chief Executive should undertake or commission a review of the functions, activities and operations of non-inspector staff. The objectives of the review would be to:</i> <ul style="list-style-type: none"> <i>• identify the needs of the Regulator/Chief Executive Officer and the Inspectorate for support in fulfilling their functions and for the effective operation of WorkSafe Tasmania;</i> <i>• determine the optimal structure and staff numbers to meet those needs; and</i> <i>• assist the implementation of changes to determine by that review.</i> 	Noted. This recommendation is an operational issue for the Regulator. Refer to <u>Recommendation 11</u> .

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18	<p>To provide inspectors with expert advice and guidance, the Regulator/Chief Executive Officer should:</p> <ul style="list-style-type: none"> • implement an operating procedure to document the process for the engagement of experts; and • determine and provide an appropriate budget allowance, initially for two years, for the engagement of experts. 	Noted. This recommendation is an operational issue for the Regulator.
19	<p>The Chief Executive Officer should employ a training manager to ensure the implementation of recommended training, monitor compliance with training requirements, analyse training outcomes and undertake regular training needs analyses. The position will be required for the long term and should be, or be part of, a permanent role. This may over time be a shared role, combined with undertaking other initiatives, but for the first two years should be a separate full-time role.</p>	Supported, noting the cross-over with recommendations 15, 20, 21, 22, 24, 25 and 26.
20	<p>The process underway for development/review of position descriptions for each role within WorkSafe Tasmania and the Inspectorate should be expedited. The position descriptions should include qualifications and minimum experience in work health and safety relevant to and necessary for the performance of the role.</p>	Supported, noting the cross-over with recommendations 15, 19, 21, 22, 24, 25 and 26.
21	<p>The full WHSQ inspector training programme or equivalent should be provided to all inspectors, subject to some reduction to take into account elements that have already been undertaken, our recommendation for more advanced investigation training by a limited number of inspectors, and the arrangements made by the Regulator for the DPP to assist with an annual training program in relation to investigations and court processes. The Regulator, with the assistance of the proposed training manager, should continue to engage with SafeWork SA and HWSA on ongoing development of training and competency frameworks.</p>	Supported, noting the cross-over with recommendations 15, 19, 20, 22, 24, 25 and 26.
22	<p>An assessment should be undertaken of the skills of individual inspectors and training should be provided for inspectors as required to enhance their skills in the following areas:</p> <ul style="list-style-type: none"> • emotional intelligence and their ability to effectively influence all stakeholders with whom they are required to engage; • practical technical skills (e.g. electrical, machinery, psycho-social); • risk management; and • work health and safety management systems. 	Supported, noting the cross-over with recommendations 15, 19, 20, 21, 24, 25 and 26.
23	<p>The Regulator/Chief Executive should ensure the proper and effective implementation and enforcement of formal processes across WorkSafe Tasmania for the use of the Departmental Performance Management Framework and “Employment Direction 26” to ensure effective performance management and career development.</p>	Supported.
24	<p>The Regulator/Chief Executive working with the Department of Justice should take steps, as soon as reasonably practicable, for the effective implementation of career development and succession planning processes within WorkSafe Tasmania.</p> <p>The recommendations made by BeWell4Work Pty Ltd in their report dated May 2016 should be considered for adoption with relevant recommendations in our report. The Workforce Capability Framework developed by the Regulator/Chief Executive</p>	Supported, noting the cross-over with recommendations 15, 19, 20, 21, 22, 25 and 26.

	<i>Officer, which covers many of the issues raised in this report, should be reviewed by the Regulator/Chief Executive Officer taking into account the discussion and recommendations in this report, and implemented as soon as reasonably possible.</i>	
25	<p><i>A person with appropriate skills and experience should be engaged, on a temporary full time basis for not less than one year, to assist with change management.</i></p> <p><i>The person should, as part of that role, work with the proposed training officer to undertake a training needs analysis to identify training requirements for effective implementation and embedding of the changes.</i></p> <p><i>The change manager position should be reviewed after one year to determine any ongoing need and the feasibility of the work being part of the role of the proposed permanent training officer.</i></p>	Supported, noting the cross-over with recommendations 15, 19, 20, 21, 22, 24 and 26.
26	<i>The Regulator/Chief Executive Officer should adopt, with the assistance of the proposed change manager, a formal change management process.</i>	Supported, noting the cross-over with recommendations 15, 19, 20, 21, 22 24 and 25
Board monitoring and review (including regulator reporting) (recommendations 27 and 28)		
27	<p><i>The Board should, following finalisation of the WorkSafe Tasmania Strategic Plan 2018-2023 obtain from the Regulator and consider operational plans that set out how the Strategies will be met and enable the Board to monitor performance against those plans.</i></p> <p><i>The Board should require the Regulator to report regularly in the Regulator's Roundup on activities and how they relate to the Strategies.</i></p>	Supported.
28	<i>The Board should require regular reporting by the Regulator on action taken towards adopting and implementing such of the recommendations in this report as are accepted.</i>	Supported.
Regulator strategy and plans (recommendations 29 and 30)		
29	<p><i>The Regulator/Chief Executive Officer and the Department of Justice should consider the inclusion in the Strategic Plan references to critical success factors and performance measures, and a summary graphic similar to that in the Strategic Plan of the Queensland Workplace Health and Safety Board.</i></p> <p><i>The Regulator/Chief Executive Officer should ensure supporting operational plans, work plans and strategic tracking and performance reporting tools, are prepared as soon as possible after the Strategic Plan 2018-2023 has been finalised. Those documents should set out how each of the Strategies will be met and enable monitoring of performance against those plans. This should include a formal plan for data retention and analysis, to enable reporting and review of work activities, work allocation and reporting against plans.</i></p> <p><i>The Operational Plan 2014-15 provides a valid approach and a useful precedent.</i></p>	Supported.

	<i>An abbreviated version of the operational plan should be published on the website of WorkSafe Tasmania to provide for transparency, and assist duty holders and the public to understand what the Regulator is doing in pursuit of the Strategic Plan and what they can expect from inspectors.</i>	
30	<i>The Regulator/Chief Executive Officer should include in the Strategic Plan 2018-2023 or operational plan details of how the Regulator and Inspectorate will promote an understanding of, and compliance with, the duty in section 46 of the WHS Act for duty holders to consult, cooperate and coordinate activities.</i>	Supported.
Regulator activities not involving inspectorate activities (recommendations 31 - 37)		
31	<i>The Regulator should develop and publish more detailed documents to support the Compliance and Enforcement Policy, providing information for inspectors and the public on how the Policy will be applied and specific powers exercised. Documents currently published and being developed by WorkSafe Victoria may provide useful guides as to the nature and content of such documents.</i> <i>The Compliance and Enforcement Policy, or supporting documents, should include or provide a link to the detail contained in the DPP Prosecution Guidelines that are followed by the Regulator.</i>	Supported.
32	<i>The Regulator should develop and publish more detailed explanation of the matters to be considered by an inspector in determining how to exercise their discretion to seek or permit voluntary compliance or issue an improvement notice and the process of consultation by the inspector with the duty holder and any relevant health and safety representative in reaching a decision.</i> <i>This document should include a note that an improvement notice is a precautionary risk tool to provide for health and safety improvement, is not punitive, and while based on a reasonable belief that a breach has occurred does not mean that a breach has in fact occurred.</i>	Noted. This recommendation is an operational issue for the Regulator.
33	<i>The Regulator should issue and enforce a direction requiring inspectors to complete and provide to the duty holder and any relevant health and safety representative an inspection record or like document, prior to or as soon as reasonably practicable after leaving the workplace.</i>	Noted. This recommendation is an operational issue for the Regulator.
34	<i>The Regulator should develop with legal advice, and distribute to inspectors, guidelines to ensure that the protection of legal professional privilege applies to advice provided by the DPP during an investigation, prosecution decision making and other proceedings.</i>	Noted. This recommendation is an operational issue for the Regulator.
35	<i>The Regulator should regularly (e.g. quarterly) provide to stakeholder organisations statistical information and information about the initiatives of the Regulator and WorkSafe Tasmania. The information may comprise information from the Regulator's Roundup provided quarterly to the Board. The Regulator should also regularly publish condensed versions of that information on the WorkSafe Tasmania website.</i>	Supported.

36	<i>The Regulator/Chief Executive Officer should as part of a review of the WorkSafe Tasmania website provide more prominent information for PCBUs and workers about consultation, issue resolution and HSRs, including their functions and powers and protection against unlawful discrimination.</i>	Supported.
37	<i>The Regulator should, for clarity and certainty, issue and enforce a direction to inspectors under section 162 of the WHS Act requiring them when attending workplaces to seek out HSRs elected to represent relevant workers and to engage with workers and HSRs when monitoring compliance and considering health and safety concerns, as required by section 164(2). The direction should include a requirement that this be recorded on an inspection report relating of the workplace visit.</i>	Supported.
Specific areas (Licensing and Accreditation) (recommendations 38 and 39)		
38	<p><i>The Regulator/Chief Executive Officer should with assistance from the Manager, Accreditation and Licensing, effect the following changes within the ADG Unit:</i></p> <ul style="list-style-type: none"> • <i>remove inspectors from involvement in licensing and accreditation processes not requiring their experience and expertise (continuing as an expert resource for CSOs and to conduct field audits of accredited assessors);</i> • <i>improve efficiency of the ADG inspectors by streaming work to meet their expertise;</i> • <i>following a reduction in the licensing role of inspectors identify and direct them to proactive field activities - including workplace compliance auditing in their fields of expertise, providing advice to duty holders, assisting the general inspectorate in workplaces, assisting inspectors with technical advice during investigations, and pursuing specific risk-based initiatives;</i> • <i>consider the feasibility of specific training of an inspector in the North and North-Western regions to provide local support to the ADG inspectors and other inspectors in the region;</i> • <i>provide for an additional inspector in the ADG Unit, with experience in high risk work;</i> • <i>undertake a training needs analysis for the CSOs and provide recommended training;</i> • <i>increase the number of CSOs by at least one permanent role (initially) and one temporary administrative support, and determine after embedding IT and process changes whether any further increase is needed; and</i> • <i>appoint a senior person with relevant training and skills to the role of Team Leader of the CSOs, to assist in the management of the licensing process and provide technical support, which will free up the inspectors.</i> 	Noted. This recommendation is an operational issue for the Regulator.
39	<i>The Regulator/Chief Executive Officer should implement as soon as this can reasonably be done, a 'state of the art' system and supporting information technology platform for the processing of licences (which may be by adopting and adapting processes used in other jurisdictions). The systems and IT platform should be aimed at improving efficiency and removing duplication.</i>	Supported.

Specific areas (Mine's Inspectorate) (recommendations 40 – 46)		
40	<i>The Regulator/Chief Executive Officer with the Chief Inspector of Mines should ensure supporting operational plans and work plans specific to the activities of the mines inspectorate are prepared as soon as possible after the Strategic Plan 2018-2023 has been finalised. This should include a formal plan for data retention and analysis, to enable reporting and review of work activities, work allocation and reporting against plans. Draft activity reports sighted by us would be useful starting points.</i>	Supported.
41	<i>No increase is currently required in the number of inspectors and support staff in the mines area. Further consideration of any need for additional resources should be deferred until our various recommendations have been adopted.</i>	Noted. This recommendation is an operational issue for the Regulator.
42	<i>The Regulator and Chief Inspector of Mines should develop and implement documented procedures to support the activities of the mines inspectorate, applying those used broadly within WST supplemented only by further documents necessary for and relating to specific activities of the mines inspectorate.</i>	Noted. This recommendation is an operational issue for the Regulator.
43	<i>The Regulator and Chief Inspector of Mines should provide for rotation of mines inspectors around workplaces, with processes for handover and ongoing communication between inspectors in respect of specific workplaces, to minimise the risk of actual or perceived 'regulator capture'. This may also be assisted by processes for the review of inspection reports.</i>	Noted. This recommendation is an operational issue for the Regulator.
44	<i>The Regulator and Chief Inspector of Mines should provide for the mines inspectors to be able to be deployed from time to time assisting the general inspectors, and the general inspectors assisting the mines inspectors.</i>	Noted. This recommendation is an operational issue for the Regulator.
45	<i>The Regulator should move responsibility for monitoring compliance in smelters from the mines inspectorate to the general inspectorate.</i>	Noted. This recommendation is an operational issue for the Regulator.
46	<i>The Regulator and Chief Inspector of Mines should provide for the mines inspectors to be assisted by general inspectors in undertaking investigations.</i>	Noted. This recommendation is an operational issue for the Regulator.