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## **RACP Submission**

**NSW Legislative Council Standing Committee on Law  
and Justice – 2021 Review of the Dust Diseases Scheme**

**December 2021**

## About The Royal Australasian College of Physicians (RACP)

We connect, train and represent 28,000 medical specialists and trainee specialists from 33 different specialties, across Australia and Aotearoa New Zealand. We represent a broad range of medical specialties including addiction medicine, general medicine, paediatrics and child health, cardiology, respiratory medicine, neurology, oncology, public health medicine, occupational and environmental medicine, palliative medicine, sexual health medicine, rehabilitation medicine, and geriatric medicine.

Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients.

# Royal Australasian College of Physicians Submission

Thank you for this opportunity to provide feedback to the NSW Legislative Council Standing Committee on Law and Justice's 2021 Review of the Dust Diseases Scheme which seeks to "provide an opportunity to evaluate the progress of the recommendations made in the 2019 review on the management of silicosis in the manufactured stone industry."<sup>1</sup>

## Feedback to inform the 2021 Review of the Dust Diseases Scheme

The Royal Australasian College of Physicians (RACP), its Australasian Faculty of Occupational and Environmental Medicine (AFOEM) and the RACP-affiliated Thoracic Society of Australia and New Zealand (TSANZ) have been strongly advocating for urgent action to be taken by all jurisdictions and the Commonwealth Government to address the emerging epidemic of accelerated silicosis, amongst stonemasons in particular, since 2018.

We continue to be deeply concerned by the current and growing epidemic of accelerated silicosis, a preventable occupational lung disease affecting those involved in the manufacture and installation of artificial stone bench tops. As reported in the June 2021 National Dust Disease Taskforce's Final Report to the Minister for Health and Aged Care, "there is evidence to suggest that **nearly one in four engineered stone workers who have been in the industry since before 2018, are suffering from silicosis or other silica dust related diseases.**"<sup>2</sup>

The RACP has supported all the recommendations outlined in the National Dust Disease's Taskforce Final Report<sup>3</sup> published in June 2021 and we urge all jurisdictions, including NSW, to commit to mutually progressing the strategies it recommended for the prevention, identification, monitoring and treatment of occupational respiratory diseases, with the national registry being a critical component.

As we outlined in our last submission to the National Dust Disease Taskforce:<sup>4</sup>

- All jurisdictions should consider a component of licensing to facilitate better education and training. A licensing scheme should include the requirement to routinely sample airborne dusts for crystalline silica and silicates and confirm that employees in businesses using engineered stone have been appropriately educated and trained in its safe use.
- Every worker and every business should have access to appropriate educational resources and advice including online information, training courses, web-based training, and expert advice where appropriate (e.g. from an occupational hygienist, occupational and environmental physician, occupationally trained respiratory medicine physician) and an appropriately trained occupational health nurse. This should include assistance and training with appropriate cutting techniques, where to find suitable ventilation, how to prioritise the various tasks required for compliance and ways to combine them with their other work tasks, and optimal respiratory surveillance.

In August 2019, the RACP made a submission<sup>5</sup> to the NSW Parliament Law and Justice Committee's 2019 Review of the Dust Disease Scheme which highlighted the following key points:

- Our concern for:
  - The very low number of cases being reported to the regulator which was incongruent with the number of non-conformance and infringement notices issued by the NSW inspectorate and the experience of treating respiratory physicians in NSW.
  - The closing of the NSW Manufactured Stone Industry Taskforce on 20 June 2019 which was originally established in 2018 to 'review safety standards and consider safety improvements to better protect workers from crystalline silica dust exposure which can lead to the lung disease silicosis'.

- The fact that the NSW Government had been using the prescribed health monitoring parameters embedded in the Work Health and Safety Model Laws despite the significant body of medical information from more recent case-based experience in Queensland, South Australia and Victoria, highlighting the false negative rate of chest x-rays used to assess workers exposed to the very high levels of respirable silica dust generated when fabricating engineered stone.
- Our support for the National Dust Disease Taskforce which had just met when the submission was made and which highlighted the importance of establishing a central national registry to ensure cases detected through case finding activities are appropriately documented and reported, and those with significant exposure can be followed.
- Our call for the NSW Government to fully support the Taskforce and to urgently put in place structured case finding activities to identify affected workers across NSW.

In the past 2 years, the NSW Government has made important efforts to address dust diseases including silicosis. These efforts have included:

- Making silicosis a notifiable condition under Part 4 of the NSW Public Health Act 2010 as of July 2020 whereby “all medical practitioners must notify NSW Health when they diagnose a case of silicosis in NSW”<sup>6</sup> and “NSW Health will provide notifications to SafeWork NSW, to undertake workplace health and safety (WHS) investigations at the current or previous workplaces of the person with silicosis.”
- Establishing the NSW Dust Disease Register managed through SafeWork NSW<sup>7</sup> in October 2020.
- Banning the uncontrolled dry cutting of manufactured stone containing crystalline silica through an amendment to the Work Health and Safety Regulation 2017 (WHS) Regulation) which came into effect on 1 July 2020. This amendment also “makes it an offence for a person conducting a business or undertaking to direct or allow a worker to cut manufactured stone containing crystalline silica without controls in place to reduce workers’ exposure to the dust generated by the cutting.”<sup>8</sup>
- Implementing the revised mandatory exposure standards for silica of 0.05mg/mg<sup>3</sup> (eight hour-weighted average) and on-the-spot fines for businesses failing to notify SafeWork NSW of an adverse health monitoring report as of 1 July 2020.<sup>9</sup>

Whilst we acknowledge and commend these efforts, we remain of the view that the NSW Government’s response to silica exposure and silicosis could be strengthened to more effectively safeguard the health of workers in the state. Specifically, we are concerned that the NSW Government’s response<sup>10</sup> to the 14 recommendations outlined in the 2019 Dust Disease Scheme Review Report<sup>11</sup> does not go far enough with over half of these recommendations only supported ‘in principle’ and one ‘not supported’.

### **Specific RACP feedback on NSW Government’s response to recommendations from the 2019 Dust Disease Scheme Review Report**

Our feedback on the NSW Government’s response to the recommendations from the 2019 Dust Disease Scheme Review Report are outlined below.

#### **Recommendation 1 - That iCare, considering SafeWork Australia’s revised guidelines in the Crystalline silica health monitoring guide,**

- **Inform all manufactured stone workers previously screened that CT scanning is now part of the initial diagnostic process**
- **Conduct an urgent review of all cases of manufactured stone previously screened for silica-related health condition, in order to identify and prioritise those who**

should be sent for CT scanning as soon as possible.

**NSW Government's response:**

**Supported**

*In early February 2020, iCare instituted a policy of routinely recommending a CT scan for workers with a significant level of exposure to respirable crystalline silica.*

- *As part of this annual requirement of the health monitoring process, iCare prompts employers to return their workers for screening. Employers who do not comply can receive a compliance breach through Safework NSW and as a result will have their workers screened.*

*The majority of previously screened workers will be informed via this process, which allows them to ask questions and discuss their personal situation with a medical professional. During this consultation, medical professionals can also identify workers who meet the criteria for a CT scan and arrange an immediate referral.*

- *iCare will conduct an audit to determine which workers are not captured through this process and then look to use alternate means to contact them and discuss the recommendations and options for CT scans.*

**RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 1 is as follows:

- It is necessary to specify the type of CT scan including the method of examination to be used by iCare for workers with a significant level of exposure to respirable crystalline silica and whether it refers to High Resolution CT as outlined in its response to Recommendation 3. We recommend the NSW Government seeks speciality radiologist input through the Royal Australian and New Zealand College of Radiologists (RANZCR) to ensure this is appropriate.
- It is important that the NSW Government and iCare make publicly available all the information gathered about the number of compliance breaches issued along with how many employers have received them and information about the denominator used (i.e., the total number of employers using artificial stone in NSW).
- The response refers to "the majority of previously screened workers", however, this should apply to **all** previously screened workers, and it should also specify that the medical professionals in question should either be a respiratory physician or an occupational and environmental medicine physician who are trained to undertake these assessments.
- Despite the recommendation specifically referring to "an urgent review of all cases of manufactured stone previously screened for silica-related health condition", the NSW Government's response does not provide a timeframe for the audit to be conducted by iCare. The NSW Government and iCare need to disclose the timeframe of the audit and commit to making its results publicly available within a specified timeframe.

**Recommendation 2 - That iCare provide a free screening service for all workers within the manufactured stone industry, with this service to be offered and actively promoted over the next 12 months, and exiting and new workers in the manufactured stone industry to be tested regularly.**

**NSW Government's response:**

**Supported**

*iCare will provide free screening for all NSW workers within the manufactured stone*

industry for 12 months.

Health screening is currently free for workers of small NSW businesses with less than 30 employees and is subsidised for medium and large employers whose workers are identified by SafeWork NSW as being most at risk to crystalline silica exposure.

The NSW Government continues to promote the screening program through iCare's website, brochures and collateral material, and via SafeWork NSW events, forums and workplace visits. Screening for workers exposed to any respirable crystalline silica dust remains an annual requirement of the health monitoring process.

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 2 is as follows:

- It is not clear whether the first sentence of the response refers to free screening for all NSW workers who have worked in the industry for at least 12 months or whether it refers to free screening being available for 12 months. This needs to be clarified.
- The same sentence states that "iCare will provide free screening for all NSW workers within the manufactured stone industry for 12 months", however, the information currently on the iCare website does not appear to reflect this statement: "Small businesses with less than 30 employees are eligible to receive free lung screening for their first round of screening. Businesses with more than 30 employees receive a 50 per cent subsidy reducing the cost of screening from \$100 to \$50 per employee (plus GST) for their first round of screening."<sup>12</sup>
- We are concerned that charging for screening decreases adherence and makes the system incomparable to other states which have implemented free case finding. We recommend the NSW Government to implement a free and comprehensive case finding program as a matter of urgency.

**Recommendation 3 - That low dose high resolution CT scanning, and not a chest x-ray, should be the preferred diagnostic measure for any person who has had significant exposure to silica dust from manufactured stone.**

### **NSW Government's response: Supported in principle**

*The NSW Government supports the use of high resolution CT (HRCT) scans as a replacement for, or as an adjunct to, chest x-rays for workers with a significant level of exposure to respirable crystalline silica.*

*These CT scans are now a routine part of the health monitoring process facilitated by iCare for workers with significant exposure to respirable crystalline silica, or for workers who show potential abnormalities on other respiratory function testing.*

*HRCT is preferred over the low dose high resolution CT as the sensitivity and clarity is considered superior for baseline screening. HRCT scanning is also recommended in the Safe Work Australia Crystalline Silica Health Monitoring Guide.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 3 is as follows:

- This recommendation should be supported in full by the NSW Government.

- The NSW Government should refer to the Thoracic Society of Australia and New Zealand (TSANZ) position statement on respiratory surveillance for coal mine dust and artificial stone exposed workers in Australia and New Zealand.<sup>13</sup>
- The NSW Government's response should specify that it supports the use of HRCT as a replacement for, or as an adjunct to, chest x-rays for workers with a significant level of exposure to respirable crystalline silica "when recommended by a respiratory physician or an occupational and environmental medicine physician."
- With regard to HRCT being preferred over the low dose high resolution CT, we recommend the NSW Government seeks speciality radiologist input through the Royal Australian and New Zealand College of Radiologists (RANZCR) to ensure this is appropriate.
- At the time of writing this submission, the Department of Health is finalising the *National Guidance for doctors assessing workers exposed to respirable crystalline silica dust with specific reference to the occupational respiratory diseases associated with engineered stone*. Once published, this national guidance should be incorporated into the NSW Government's actions to address silicosis and occupational respiratory diseases associated with engineered stone more broadly.

**Recommendation 4 - That iCare review and expand the financial assistance it provides for retraining and vocational support when an individual has been diagnosed with a silica-related health condition, to ensure workers feel appropriately supported to leave the industry if they wish.**

#### **NSW Government's response:**

##### ***Supported in principle***

*iCare provides financial compensation and support in accordance with the Workers Compensation (Dust Diseases) Act 1942 to Scheme participants diagnosed with a dust disease who wish to leave the industry and require vocational rehabilitation or retraining. iCare has established procedures in place to ensure these workers are well supported throughout the process and will continue to review opportunities to do so.*

*The Dust Diseases Scheme is funded on a pay-as-you-go basis through annual contributions made by NSW workers compensation insurers, which is passed on to employers through premiums. As such, an increase in financial assistance may result in an increase in employer premiums.*

##### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 4 is as follows:

- This recommendation should be supported in full by the NSW Government.
- Whilst we understand that it may result in an increase in employer premiums, providing adequate funding for retraining and vocational support for those workers diagnosed with a silica-related condition who wish to leave the industry should be a priority. These workers are often young and in the early part of their working lives and providing them with adequate support in this regard is crucial both for themselves, their families and the broader community.
- Anecdotally, RACP members have reported that workers' disability for these workers is under-assessed by iCare. This is in a context where iCare has recently acknowledged that it had been significantly underpaying many eligible applicants including workers suffering from dust diseases such as silicosis.<sup>14</sup>
- We recommend the NSW Government and iCare make available publicly all the data about return-to-work rates of diagnosed cases, what types of retraining has been provided and to which new jobs/industries these workers are returning in cases of artificial stone silicosis.

**Recommendation 5 - That the NSW Government investigate opportunities to raise and manage funds for future silica related compensation claims by manufactured stone workers. Consideration should be given to imposing a specific levy on the manufactured stone industry.**

**NSW Government's response:**

***Supported in principle***

*The State Insurance Regulatory Authority (SIRA) is responsible for determining the contributions payable to the Dust Diseases Authority by NSW workers compensation insurers to enable the Authority to pay compensation in accordance with the Workers' Compensation (Dust Diseases) Act 1942.*

*This includes compensation for silica-related claims by manufactured stone workers. The Act enables SIRA to apportion contributions in a way that reflects the relative risk of developing silicosis and other dust diseases for workers in different classes of employment. The exposure risk for each industry is a key part of the process by which SIRA determines the contributions payable by insurers. This ensures that the industries in which workers are most likely to contract silicosis or other dust diseases, such as the manufactured stone industry, bear a higher proportion of the cost of related claims.*

***RACP feedback***

The RACP's feedback regarding the NSW Government's response to Recommendation 5 is as follows:

- This recommendation should be supported in full by the NSW Government.
- The NSW Government's response advises that SIRA "apportions contributions in a way that reflects the relative risk of developing silicosis and other dust diseases for workers in different classes of employment". This is an established process that needs regular review as industries and their associated risks may change over time.

**Recommendation 6 - That the NSW Government introduce a mandatory requirement for manufacturers and suppliers to:**

- **Affix standardised warning labels on all manufactured stone products**
- **Provide safety data sheets with all manufactured stone products, in a comprehensive range of languages.**

**NSW Government's response:**

***Supported in principle***

*Hazard information relating to silica-containing products can currently be provided in the form of a label, product information sheet or safety data sheet. The regulations governing labelling and product safety information of this type are part of the nationally harmonised model Work Health and Safety laws. A model Code of Practice for the manufactured stone industry is currently being developed by Safe Work Australia.*

*Accordingly, the NSW Government will refer to Safe Work Australia for consideration whether the Model Code of Practice currently under development should include a requirement that designers, manufacturers, importers and suppliers of manufactured stone provide warning labels, product information sheets, or safety data sheets in a range of languages with all manufactured stone products or whether such a requirement would be better placed in the model WHS Regulation.*

***RACP feedback***

The RACP's feedback regarding the NSW Government's response to Recommendation 6 is as follows:



- This recommendation should be supported in full by the NSW Government.
- Safe Work Australia has recently published the *Model Code of Practice: Managing the risks of respirable crystalline silica from engineered stone in the workplace*.<sup>15</sup> SafeWork NSW should ensure that employers are consistently applying the labelling and safety data sheet requirement in the code and that the information is provided in a range of languages.
- Anecdotally, members have reported that labelling is still incomplete with regard to all the constituents of these products.
- It would be valuable for the NSW Government and iCare to provide specific details regarding how non-compliance and breaches are dealt with and publish the outcomes so these data are widely available.

**Recommendation 7 - That the Minister for Better Regulation ensure that steps are taken to further reduce the workplace exposure standard to a time weighted average of 0.02 mg/m<sup>3</sup> for non-mining industries as soon as possible, to ensure workers are protected from the harmful effect of silica dust.**

#### **NSW Government's response:**

##### ***Supported in principle***

*The NSW Government supports reducing the workplace exposure standard for respirable crystalline silica for all workplaces. Submissions to the report noted there are limitations on a health-based evaluation (cumulative assessment preferred), measurements and analysis reliability at 0.02mg/m<sup>3</sup>. This is particularly so for extended work shifts (more than eight hours requires it to almost halve to silica 0.01mg/m<sup>3</sup> creating further unreliability); and compliance and enforcement.*

*In December 2019, a majority of Work Health and Safety Ministers (including the Minister for Better Regulation and Innovation) therefore agreed to lower silica standard to silica 0.05mg/m<sup>3</sup>. Safe Work Australia is to facilitate an investigation into measurement and practical considerations that may enable a future reduction to silica 0.02mg/m<sup>3</sup>. The revised standard of 0.05mg/m<sup>3</sup> commenced on 1 July 2020 in NSW. An appropriate period of time should be allowed to consider the effectiveness of the new standard before any decision is made to further reduce the exposure standard.*

*The NSW Government now awaits the outcome of the Safe Work Australia investigation. If the measurement difficulties and other practical considerations can be overcome the Government will move to lower the time weighted average exposure standard even further.*

##### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 7 is as follows:

- The NSW Government needs to ensure continued monitoring for compliance with the improved standards.
- The RACP urges the NSW government to complete the investigation into measurement and practical considerations which may enable a future reduction in silica standards and make it publicly available.
- The RACP notes that although current workplace exposure standards for RCS have been reduced, there are data modelling that diseases other than silicosis may be associated with lower RCS levels (such as lung cancer).

**Recommendation 8 - That the NSW Government introduce a legislative amendment to ensure all manufactured stone fabrication sites and employers are registered with SafeWork NSW and will maintain such registration every 12 months, and are conducting regular air**

## **monitoring and regularly providing the results to SafeWork NSW.**

### **Not supported**

*The Government does not support this recommendation as SafeWork NSW is aware of the location of all manufactured stone fabrication sites in NSW and has visited them. SafeWork NSW is able to obtain information about the location of manufactured stone fabrication sites by issuing notices to the importers of manufactured stone.*

*SafeWork NSW will continue to support Safe Work Australia's development of a model Code of Practice for the manufactured stone industry, which will provide guidance on the content of health and safety duties at manufactured stone sites, including existing obligations to conduct air monitoring under the Work Health and Safety Regulation 2017 (cl 50).*

*In accordance with the 2017-2022 Hazardous Chemicals and Materials Exposures Baseline and Reduction Strategy SafeWork NSW will also continue to conduct educational, compliance and enforcement activities to ensure that persons conducting a business or undertaking (PCBUs) on manufactured stone fabrication sites are fulfilling their work health and safety duties, including air monitoring where appropriate.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 8 is as follows:

- This recommendation should be supported by the NSW Government. The current response allows for failures in compliance. Registration requirements provide an increased guarantee that all relevant businesses and sites are known and overseen by SafeWork NSW.
- SafeWork NSW needs to publish the information it has on importers of manufactured stone along with the list of sites for all manufactured stonework in NSW to enable it to be independently verified. This would also allow doctors to determine whether the workplace of a worker they are assessing is known to SafeWork NSW.
- The RACP notes that artificial stone is used in many small workplaces and on construction sites and that silica exposure can also occur from DIY cutting of silica-containing materials in homes.

## **Recommendation 9 - That the NSW Government immediately introduce an explicit ban on dry cutting.**

### **NSW Government's response:**

#### **Supported**

*The NSW Government has amended the Work Health and Safety Regulation 2017 to ban the practice of dry cutting. This came into effect on 1 July 2020.*

*It is now an offence for a person conducting a business or undertaking at a workplace to direct or allow a worker to cut, grind, drill or polish manufactured stone containing crystalline silica with a power tool, unless the worker is using respiratory protective equipment and additional controls are in place and properly designed, installed, used and maintained. The Regulation also provides SafeWork NSW inspectors with the power to issue on-the-spot fines for non-compliance.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 9 is as follows:

- We commend the NSW Government for amending the Work Health and Safety Regulation 2017 to ban the practice of dry cutting as of 1 July 2020.

- We recommend the NSW Government and SafeWork NSW make information publicly available on the number of sites which have complied and the dust exposures in all sites.

**Recommendation 10 - That the NSW Government provide an appropriate level of additional annual funding to SafeWork NSW to strengthen its regulatory enforcement and monitoring of health and safety standards within the manufactured stone industry.**

**NSW Government’s response:**

***Supported in principle***

*SafeWork NSW continues to use its existing resources to regulate the manufactured stone industry and enforce NSW work health and safety laws. The NSW Government has already made legislative amendments which strengthen SafeWork NSW’s regulatory enforcement powers and the monitoring of health and safety standards within the manufactured stone industry. SafeWork’s capacity to undertake its role as a work health and safety regulator is regularly reviewed and enhanced as appropriate.*

**RACP feedback**

The RACP’s feedback regarding the NSW Government’s response to Recommendation 10 is as follows:

- We recommend the NSW Government provides further information about the process it uses to regularly review SafeWork NSW’s capacity “to undertake its role as a health and safety regulator” and in particular how this relates to the manufactured stone industry and the prevention of silicosis.

**Recommendation 11 - That Health NSW, in conjunction with SafeWork NSW, co-ordinate a case finding study for respirable crystalline silica exposure in the manufactured stone industry, to improve the identification and assessment of workers at risk of exposure.**

**NSW Government’s response:**

***Supported***

*The NSW Government fully supports the principle of active finding of cases of silicosis among people working in industries where they are exposed to silica dust. This work has been in progress in response to Recommendation 1 of the Law and Justice Committee’s 2018 review of the Dust Diseases Scheme.*

*The Work Health and Safety Regulation 2017 imposes a duty on persons conducting a business or undertaking (PCBUs) to provide health monitoring to workers. This, along with the strategies mentioned below, contribute to the whole of government approach to improve the identification and assessment of workers at risk of exposure.*

*NSW Health, SafeWork NSW and iCare have a working partnership to actively identify new cases of silicosis resulting from respirable crystalline silica exposure in the manufactured stone industry.*

*New cases have been identified through the:*

- *iCare lung screening health monitoring service;*
- *SafeWork NSW WHS Roadmap 2022; and,*
- *An analysis of hospital admissions and deaths.*

*These whole of government measures are considered more effective than an adhoc case finding study. In that regard it better implements the objective of the recommendation which is, to improve the identification and assessment of workers at risk of exposure.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 11 is as follows:

- We do not agree with the statements made in the NSW Government's response that a case finding study is 'ad hoc' and that the three measures outlined to identify new cases are adequate. The RACP supports the use of appropriate scientific methodology and notes that case finding is an established methodology for research whereas the above measures outlined in the NSW Government's response are unsupported by any such methodology.
- A case finding study is a scientifically valid method of enabling full identification of all cases of engineered stone silicosis in NSW and we urge the NSW Government to put one in place. The fact that a case finding study has not occurred in NSW means that this state is significantly behind in assessing this occupational safety risk and behind in compensating and assisting these workers.
- The NSW Government needs to release specific details of exactly how many cases have been identified and of what severity, along with the total denominator of workers exposed. It also needs to make publicly available the information from the three identified data sources (i.e. iCare lung screening health monitoring services; SafeWork NSW Roadmap 2022 and an analysis of hospital admissions and deaths).

**Recommendation 12 - That the NSW Government immediately establish the Silicosis Health Register and ensure that it captures not only diagnosed cases of silica-related disease but also screening results and investigative reports undertaken for workers exposed to crystalline silica.**

**NSW Government's response:**

#### ***Supported***

*From 1 July 2020, silicosis is notifiable by all NSW medical practitioners to NSW Health as a scheduled medical condition under Part 4 of the NSW Public Health Act 2010.*

*Amendments to the NSW Work Health and Safety Act 2011 have been introduced to Parliament to enable the*

*NSW work health and safety regulators to lawfully use information provided by NSW Health to track and investigate relevant workplaces and take appropriate compliance and enforcement action if required.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 12 is as follows:

- We welcome the NSW Government making silicosis a notifiable disease and amending the NSW Work Health and Safety Act 2011 "to enable the NSW work health and safety regulators to lawfully use information provided by NSW Health to track and investigate relevant workplaces and take appropriate compliance and enforcement action if required."
- We call on the NSW Government to publish information on how many cases have been registered and what resources have been provided to enable this to happen and to evaluate the effectiveness and completeness of the Silicosis Health Register.

**Recommendation 13 - That SafeWork NSW, when reviewing its education and awareness campaigns, specifically consider how best to promote safe practices to independent contractors and installers in the manufactured stone industry. In doing so, SafeWork NSW should consult with suppliers, fabricators, installers and unions involved in the manufactured stone industry.**

## **NSW Government's response:**

### ***Supported***

*The NSW Government recognises and supports the promotion of safe practices for workers in the manufactured stone industry, including independent contractors and installers.*

*In accordance with NSW Government advertising and project requirements, SafeWork NSW conducts pre and post-evaluations for all awareness campaigns, including behavioural insights and questionnaires, and undertakes mid-point and post-project evaluations that include a range of surveying and interviewing methodologies. While the majority of fabricators also perform installation work and are already caught by SafeWork NSW reviews, SafeWork NSW will specifically include independent contractors and installers in the manufactured stone industry in future evaluations.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 13 is as follows:

- Independent contractors and installers tend to be difficult to identify, so it would be helpful for the NSW Government to outline which measures SafeWork NSW has put in place to do this.
- The NSW Government and SafeWork NSW need to publicly release information on exactly how many contractors and installers have participated in these education and awareness campaigns and to continue these campaigns.

**Recommendation 14 - That the NSW Government provide additional funding to the Dust Diseases Board and Centre for Work Health and Safety specifically for research projects related to the prevention, management and treatment of silicosis, and in terms of sourcing additional funding for research projects, commission iCare to scope out possible funding models that would be based on a cost recovery basis from the industry.**

## **NSW Government's response:**

### ***Supported in principle***

*The Dust Diseases Scheme is funded on a pay-as-you-go basis through an employer levy on NSW worker compensation insurance premiums. As such, an increase in research funding may result in an increase in employer levy contributions.*

*The NSW Government will continue to fund research projects to prevent, manage and treat silicosis.*

### **RACP feedback**

The RACP's feedback regarding the NSW Government's response to Recommendation 14 is as follows:

- This recommendation should be adopted in full.
- The NSW Government's response does not refer to any additional funding being made available, and we would recommend the NSW Government specifies which mechanisms it will use to continue funding research projects to prevent, manage and treat silicosis.
- In our view, further funding is needed for a cost benefit analysis of preventative measures, for a national multidisciplinary team and for the establishment of an independent occupational respiratory clinic similar to the one set up by Alfred Health in Victoria.

## **Concluding remarks**

We acknowledge and commend the efforts the NSW Government has put in place to address dust diseases including silicosis over the past two years. However, we remain of the view that the NSW

Government's response to silicosis could be strengthened to more effectively safeguard the health of workers in the state.

This submission has outlined the RACP feedback on the NSW Government's response to each of the 14 recommendations outlined in the 2019 Dust Disease Scheme Review Report. Specifically, we urge the NSW Government to:

- Implement a free and comprehensive case finding program as a matter of urgency.
- Support Recommendation 8 (i.e. introduce a legislative amendment to ensure all manufactured stone fabrication sites and employers are registered with SafeWork NSW and will maintain such registration every 12 months, and are conducting regular air monitoring and regularly providing the results to SafeWork NSW) to provide an increased guarantee that all relevant businesses and sites are known and overseen by SafeWork NSW.
- Provide adequate funding for retraining and vocational support for those workers diagnosed with a silica-related condition who wish to leave the industry. These workers are often young and at the start of their working lives and providing them with adequate support in this regard is crucial both for themselves, their families and the broader community.
- Provide additional funding for research projects to prevent, manage and treat silicosis including funding for a cost benefit analysis of preventative measures.
- Make information publicly available on the following:
  - Number of silicosis cases identified, of what severity along with the total denominator.
  - The number of compliance breaches issued along how many employers have received them and information about the denominator used (i.e., the total number of employers using artificial stone in NSW).
  - Information on importers of manufactured stone along with the list of sites for all manufactured stonework in NSW to enable independent verification.
  - Data about return-to-work rates of diagnosed cases, the types of retraining that has been provided and to which new jobs/industries these workers are returning.

Thank you again for the opportunity to provide feedback on the 2021 Review of the Dust Diseases Scheme. We would be delighted to nominate one or more RACP representative/s to attend upcoming public hearings to further inform this review, as was done for previous reviews.

Should you require any further information about this submission or to invite RACP representatives to attend a public hearing, please contact the RACP Policy Team via [Policy@racp.edu.au](mailto:Policy@racp.edu.au)

## REFERENCES

- <sup>1</sup> Parliament of New South Wales, 2021 Review of the Dust Disease Scheme. Online: <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2833> [last accessed 10/11/2021]
- <sup>2</sup> National Dust Disease Taskforce, Department of Health, Final Report to Minister for Health and Aged Care – June 2021. Online: [https://www1.health.gov.au/internet/main/publishing.nsf/Content/562CF83B7AECFC8FCA2584420002B113/\\$File/NDT-Final-Report-June-2021.pdf](https://www1.health.gov.au/internet/main/publishing.nsf/Content/562CF83B7AECFC8FCA2584420002B113/$File/NDT-Final-Report-June-2021.pdf) [last accessed 25/11/2021]
- <sup>3</sup> National Dust Disease Taskforce, Department of Health, Final Report to Minister for Health and Aged Care – June 2021. Online: [https://www1.health.gov.au/internet/main/publishing.nsf/Content/562CF83B7AECFC8FCA2584420002B113/\\$File/NDT-Final-Report-June-2021.pdf](https://www1.health.gov.au/internet/main/publishing.nsf/Content/562CF83B7AECFC8FCA2584420002B113/$File/NDT-Final-Report-June-2021.pdf) [last accessed 25/11/2021]
- <sup>4</sup> The Royal Australasian College of Physicians (RACP), RACP submission to the National Dust Disease Taskforce – Draft Vision, Strategies and Priority Areas for Action – May 2021. Online: [https://www.racp.edu.au/docs/default-source/advocacy-library/racp-submission-to-the-national-dust-disease-taskforce-draft-vision-strategies-and-priority-areas-for-action.pdf?sfvrsn=fb6c11a\\_4](https://www.racp.edu.au/docs/default-source/advocacy-library/racp-submission-to-the-national-dust-disease-taskforce-draft-vision-strategies-and-priority-areas-for-action.pdf?sfvrsn=fb6c11a_4) [last accessed 25/11/2021]
- <sup>5</sup> The Royal Australasian College of Physicians (RACP), RACP Submission – NSW Legislative Council Standing Committee on Law and Justice – 2019 Review of the Dust Diseases Scheme – August 2019
- <sup>6</sup> SafeWork NSW, Notification of Silicosis Diagnosis. Online: <https://www.safework.nsw.gov.au/legal-obligations/medical-practitioners-obligation-to-notify-of-a-disease/notificationofsilicosis#:~:text=For%20medical%20practitioners-,Silicosis%20is%20a%20scheduled%20medical%20condition%20under%20Part%204%20of,provide%20information%20to%20SafeWork%20NSW> [last accessed 10/11/2021]
- <sup>7</sup> SafeWork NSW, NSW Dust Disease Register Annual Report 2020-21, July 2021. Online: <https://www.nsw.gov.au/sites/default/files/2021-08/nsw-dust-disease-register-annual-report-2020-21.pdf> [last accessed 10/11/2021]
- <sup>8</sup> SafeWork NSW, Amendments to the WHS Regulation 1 July 2020. Online: [https://www.safework.nsw.gov.au/legal-obligations/legislation/accordians/amendments-to-the-whs-regulation-1-july-2020#:~:text=The%20amendment%20provides%20that%20persons,NSW%20must%20have%20completed%20training&text=Silica\)%20Regulation%202020-,An%20amendment%20to%20the%20Work%20Health%20and%20Safety%20Regulation%202017,manufactured%20stone%20containing%20crystalline%20silica](https://www.safework.nsw.gov.au/legal-obligations/legislation/accordians/amendments-to-the-whs-regulation-1-july-2020#:~:text=The%20amendment%20provides%20that%20persons,NSW%20must%20have%20completed%20training&text=Silica)%20Regulation%202020-,An%20amendment%20to%20the%20Work%20Health%20and%20Safety%20Regulation%202017,manufactured%20stone%20containing%20crystalline%20silica) [last accessed 10/11/2021]
- <sup>9</sup> SafeWork NSW, Crystalline silica. Online: <https://www.safework.nsw.gov.au/hazards-a-z/hazardous-chemical/priority-chemicals/crystalline-silica> [last accessed 10/11/2021]
- <sup>10</sup> NSW Government, Response to Report of the Legislative Council Standing Committee on Law and Justice – 2019 Review of the Dust Diseases Scheme – Silicosis in the manufactured stone industry. 2020. Online: <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2538/Government%20Response%20-%20202019%20review%20of%20the%20Dust%20Diseases%20scheme.pdf> [last accessed 25/11/2021]
- <sup>11</sup> NSW Parliament Legislative Council Standing Committee on Law and Justice, 2019 Review of the Dust Diseases Scheme – Silicosis in the manufactured stone industry. Report 73. March 2020 Online: <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2538/Report%2073%20%E2%80%93%202019%20Review%20of%20the%20Dust%20Diseases%20Scheme%20%E2%80%93%2024%20March%202020.pdf> [last accessed 25/11/2021]
- <sup>12</sup> iCare website, *Lung screening for employees working with crystalline silica and manufactured stone products*. Online: <https://www.icare.nsw.gov.au/employers/employer-obligations/lung-screening-service/working-safely-with-crystalline-silica#gref>. Last accessed [25/11/2021]
- <sup>13</sup> Perret, Jennifer L., et al. "Respiratory surveillance for coal mine dust and artificial stone exposed workers in Australia and New Zealand: A position statement from the Thoracic Society of Australia and New Zealand." *Respirology* 25.11 (2020): 1193-1202. Online: <https://onlinelibrary.wiley.com/doi/full/10.1111/resp.13952> [last accessed 25/11/2021]
- <sup>14</sup> Lucy Cormack, Sydney Morning Herald, *iCare documents reveal dead and dying workers underpaid almost \$15 million*. 24 May 2021. Online: <https://www.smh.com.au/politics/nsw/icare-documents-reveal-dead-and-dying-workers-underpaid-almost-15-million-20210521-p57u11.html> [last accessed 26/11/2021]
- <sup>15</sup> Safe Work Australia, *Managing the risks of respirable crystalline silica from engineered stone in the workplace – Code of Practice* – October 2021. Online: <https://www.safeworkaustralia.gov.au/sites/default/files/2021-11/Model%20Code%20of%20Practice%20-%20Managing%20the%20risks%20of%20respirable%20crystalline%20silica%20from%20engineered%20stone%20in%20the%20workplace.pdf> [last accessed 26/11/2021]