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RACP Submission

**NSW Legislative Council Standing Committee on Law
and Justice – 2019 Review of the Dust Diseases Scheme**

August 2019

About The Royal Australasian College of Physicians (RACP)

The RACP trains, educates and advocates on behalf of 17,000 physicians and 8,000 trainee physicians, across Australia and New Zealand. The College represents 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.

RACP Submission

Thank you for this opportunity to provide feedback on the Legislative Council Standing Committee on Law and Justice's 2019 Review of the Dust Diseases Scheme. This submission has been led by the RACP's Australasian Faculty of Occupational and Environmental Medicine (AFOEM) in consultation with relevant committees.

Feedback to the 2019 Review of the Dust Diseases Scheme

We note the NSW Legislative Council's Standing Committee on Law and Justice is currently conducting an inquiry into the [2019 Review of the Dust Diseases scheme](#) and that "the committee resolved that **the 2019 review of the Dust Diseases scheme focus on the response to silicosis in the manufactured stone industry in New South Wales.**"

As outlined in the [NSW Legislative Council's Standing Committee on Law and Justice's 2018 Review of the Dust Diseases Scheme report](#) issued in February 2019:

- "The NSW Dust Diseases Scheme is a no-fault scheme for New South Wales workers who have developed a dust disease from occupational exposure to hazardous dust. The scheme provides compensation benefits to workers with an occupational dust disease and their dependents. Scheme participants have access to medical, healthcare and related support services such as domestic assistance, mobility aids and equipment, and home modifications.
- The Dust Diseases Scheme is focused on providing ongoing assistance to support workers' and their dependents' quality of life, with operating costs funded by an employer levy on workers compensation insurance premiums.
- There are 14 dust diseases that are compensable under the scheme. These are listed in Schedule 1 to the [Workers' Compensation \(Dust Diseases\) Act 1942](#), namely: Aluminosis, Asbestosis, Asbestos induced carcinoma, Asbestos related pleural diseases, Bagassosis, Berylliosis, Byssinosis, Coal dust pneumoconiosis, Farmers' lung, Hard metal pneumoconiosis, Mesothelioma, Silicosis. Silico-tuberculosis and Talcosis."

The Royal Australasian College of Physicians and its Australasian Faculty of Occupational and Environmental Medicine (AFOEM) and the RACP-affiliated Thoracic Society of Australia and New Zealand (ThSANZ) 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.

We are 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. The Queensland, Victorian and South Australian Governments are currently implementing structured case finding activities involving comprehensive screening programs to identify current and previous workers affected by silicosis in the engineered stone industry. We understand that since September 2018, about 800 current and former workers have been screened in Queensland, and 156 cases of silicosis in its various forms have been confirmed. Of these cases over 20 have been found to have progressive massive fibrosis, the rapidly progressive form of this disease which leads to early death or lung transplantation.

Our NSW members are very aware of tragic cases involving stone masons in NSW, including a 47 year old with five children diagnosed with category 3 silicosis, a 56 year old who was transplanted two years ago for severe progressive massive fibrosis and a number of cases recently uncovered in the Hunter area amongst artificial stone workers.

Initial indications from the Victorian and South Australian screening programs indicate a similar crude prevalence of the disease. With a sizeable manufactured stone industry in NSW, it is very likely there will be a significant number of cases in NSW. Professor Brendan Murphy, Australia's Chief Medical Officer has described it as an epidemic, and in our view, it represents a crisis in the system that protects Australian workers.

Despite the efforts of SafeWork NSW and iCare to increase the level of health monitoring, we understand there have been an unexpected very low number of cases being reported to the regulator, and only one claim for compensation through the Dust Diseases Scheme in the last three years. The reason for this is not clear. It

is incongruent with the number of non-conformance and infringement notices issued by the NSW inspectorate and the experience of treating respiratory physicians in NSW. As indicated, our members are aware of many symptomatic cases, and several deaths. Some anecdotal reports suggest administrative barriers may be limiting access to the available recourses for affected workers. We believe the reason for the low detection rate warrants investigation.

We acknowledge that the New South Wales Government has undertaken considerable efforts to address silicosis in general, including implementing the [2017-2022 Hazardous Chemicals and Materials Exposures Baseline and Reduction Strategy](#) which seeks to address the health monitoring necessary for workers with silicosis exposure. SafeWork NSW also established the NSW Manufactured Stone Industry Taskforce 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”, however, an [earlier media release from the NSW Government](#) indicated the Taskforce would close on 30 June 2019 and it is not currently clear whether it is still active and what outcomes have been achieved.

Despite these efforts from the NSW Government, we are concerned that these activities have been using the prescribed health monitoring parameters embedded in the Work Health and Safety Model Laws. There is now a 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.

At a national level, the RACP, AFOEM and ThSANZ have welcomed the [establishment of the National Dust Diseases Taskforce](#) which held its first meeting on 1 August 2019 and the Morrison Government’s commitment to the establishment of a central registry to ensure the development of a nationally coordinated approach for the prevention, early identification, control and management of dust diseases in Australia. The National Dust Diseases Taskforce met for the first time on 1 August 2019. The RACP, AFOEM and ThSANZ have strongly advocated at all levels of Government for the establishment of a central registry to ensure cases detected through case finding activities are appropriately documented and reported, and those with significant exposure can be followed. Ideally, an identical system for detection and reporting should be put in place in each state to streamline the process of feeding back the information into the central registry.

To address the emerging epidemic of accelerated silicosis effectively, it is critically important that the NSW Government fully supports the Commonwealth Dust Diseases Taskforce and urgently puts in place structured case finding activities to identify affected workers across NSW. To this end, we have recently written to the NSW Premier and relevant NSW Ministers to strongly encourage the NSW Government to join these efforts through active participation in the National Dust Diseases Taskforce to ensure that NSW perspectives and requirements are included in the Taskforce’s considerations.

Thank you again for the opportunity to provide feedback on the 2019 Review of the Dust Diseases Scheme. We would be delighted to nominate one or more RACP representative to attend the upcoming public hearing in September 2019 to further inform this review. Should you require any further information about this submission or to invite RACP representatives to attend a public hearing, please contact Claire Celia, Senior Policy & Advocacy Officer, on Claire.Celia@racp.edu.au.