



**The Hon Dominic Perrottet MP**  
Treasurer

Our Reference: 00465/19

Mr David Blunt  
Clerk of the Parliaments and Clerk of the Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Blunt,

Please find enclosed the NSW Government response to the Law and Justice Committee's 2018 review of the Dust Diseases Scheme and 2018 review of the Lifetime Care and Support Scheme.

Yours sincerely,

5.07.19

**The Hon Dominic Perrottet MP**  
Treasurer

Encl.

Received at 3:45pm on  
Friday 5 July 2019 and  
authorised to be mailed  
Straffell  
Clerk - Assistant

## GOVERNMENT RESPONSE

to

### REPORT OF THE LEGISLATIVE COUNCIL STANDING COMMITTEE ON LAW AND JUSTICE

on

### 2018 REVIEW OF THE DUST DISEASES SCHEME

NSW Government Response	
Recommendation	
<p><b><u>Recommendation 1</u></b></p> <p>That icare and SafeWork NSW conduct a case finding study for silicosis in the manufactured stone industry in New South Wales.</p>	<p><b>Supported</b></p> <p>The Government recognises Committee and stakeholder concerns that silicosis is a serious emerging health issue and that steps need to be taken to actively look for cases of silicosis, particularly in the manufactured stone industry.</p> <p>icare will work with Government agencies to determine the best way of identifying instances of silicosis in the manufactured stone industry in NSW.</p>
<p><b><u>Recommendation 2</u></b></p> <p>That the Standing Committee on Law and Justice's next review of the Workers Compensation (Dust Diseases) Scheme focus on silica dust and silicosis, particularly in the manufactured stone industry.</p>	<p><b>Supported</b></p> <p>The Government supports the Committee's recommendation to focus its next review of the Workers' Compensation (Dust Diseases) Scheme on silica dust and silicosis, particularly in the manufactured stone industry.</p>

**Recommendation 3**

That the NSW Government urgently undertake targeted awareness and education initiatives into the dangers associated with the manufactured stone industry, including a focus on non-English speaking background workers and employers.

**Supported**

The Government supports targeted awareness and education initiatives into the dangers associated with the manufactured stone industry, including a focus on non-English speaking background workers and employers. Government agencies have been undertaking activities and will continue to undertake activities to support the manufactured stone industry. The activities will utilise the capabilities available through the Department of Customer Service Behavioural Insights group and other services such as Service NSW to ensure that the awareness and education activities are appropriately targeted.

SafeWork NSW and icare have worked with the Manufactured Stone Taskforce to improve awareness into the dangers associated with working with silica containing products, including manufactured stone.

SafeWork NSW's 5-year chemicals strategy (to 30 June 2022) consists of four components for SafeWork NSW intervention:

- awareness (webinars, factsheets, video safety alerts, social media)
- interactions (workplace visits, conferences, events)
- research (health monitoring, international modelling, medical testing)
- legislation (review of WHS laws, workplace exposure standards, supporting guidance material and/or codes of practice).

SafeWork NSW has implemented a public awareness campaign to educate workers about the risks of silicosis and what they need to do to protect themselves. The project has included a series of Roadshows in Wollongong, Bankstown and Newcastle, with radio advertisement and factsheets provided in languages other than English including Arabic, Chinese, Hindi, Korean and Vietnamese. icare presented at these Roadshows providing information about its health monitoring service, compensation scheme and services.

SafeWork NSW also hosted a National Silica Symposium on 7 May 2019. The Symposium was designed to provide employers and workers with the latest information on silica best practice and how to keep workplaces safe. icare presented on its health monitoring service and employer obligations to provide health monitoring to workers exposed to silica dust in the workplace.

	<p>icare is partnering with SafeWork NSW on the workplace visit component by providing a subsidised health monitoring service for NSW employers issued with an improvement notice from SafeWork NSW. The service will provide free lung screening for small businesses with less than 30 employees. Businesses with more than 30 employees receive a 50 per cent subsidy reducing the cost of screening from \$100 to \$50 (plus GST) for the first round of screening. The service will be provided in Sydney and regionally through icare's Lung Screen vehicle, a mobile respiratory monitoring clinic. The project includes visits to approximately 9,000 businesses in NSW to reduce worker risks and eliminate injuries and silicosis disease associated with exposure to respirable crystalline silica.</p>
<p><b>Recommendation 4</b> That, if a National Dust Diseases Register is not established by the end of 2019, the NSW Government establish a New South Wales Dust Diseases Register.</p>	<p><b>Supported in principle</b> The Government supports this recommendation in principle. It is noted that the Commonwealth Government has announced funding for a National Dust Diseases Taskforce and the establishment of a National Dust Diseases Register. The Clinical Principal Committee of the Australian Health Ministers' Advisory Council is examining the creation of a national register. The NSW Government will consider the outcomes of this report once available.</p>
<p><b>Recommendation 5</b> That icare review the last two years of medical assessment decisions made by the Medical Assessment Panel to check for consistency and conformity with current medical evidence and ensure that international best practice is being followed.</p>	<p><b>Supported in principle</b> The Government supports this recommendation in principle. It should be noted that the Medical Assessment Panel (MAP) comprises an independent Chairperson and one member each nominated by stakeholder organisations representing the interests of employers and employees involved in industries where workers are at risk of contracting a dust disease. MAP members must possess the following experiences and qualifications to be considered for appointment:</p> <ul style="list-style-type: none"> <li>• Registration as a medical practitioner with the NSW Medical Board</li> <li>• Appointment as a fellow of the Royal Australian College of Physicians (FRACP)</li> <li>• Practicing as a thoracic physician</li> <li>• Membership of the Thoracic Society of Australia and New Zealand (TSANZ)</li> <li>• A minimum ten years clinical experience</li> <li>• An interest and expertise in the diagnosis and treatment of occupational lung disease</li> </ul>

	<ul style="list-style-type: none"> <li>• NSW State Insurance Regulatory Authority approved accreditation in assessment of permanent impairment or equivalent</li> <li>• Experience in the medico-legal environment.</li> </ul> <p>The Government supports any review that ensures best practice and supports greater transparency of decision making. However, it is important that any review be undertaken by appropriately qualified and independent practitioners.</p>
<p><b><u>Recommendation 6</u></b></p> <p>That the State Insurance Regulatory Authority liaise with key stakeholders, including the Thoracic Society of Australia and New Zealand, regarding updating of the list of dust diseases contained in Schedule 1 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i> and commission an independent actuarial study to consider the implications of making any amendments.</p>	<p><b>Supported in principle</b></p> <p>The Government notes that in order to consider inclusion of other occupational dust diseases not currently included in Schedule 1 of the <i>Workers' Compensation (Dust Diseases) Act 1942</i>, it will be necessary to undertake research into:</p> <ul style="list-style-type: none"> <li>• epidemiological studies on the incidence of the dust disease;</li> <li>• an exposure profile of the NSW workforce overtime;</li> <li>• latency periods (ie. the time between exposure to the hazard and onset of illness); and</li> <li>• the severity of the disease on its occurrence.</li> </ul>
<p><b><u>Recommendation 7</u></b></p> <p>That the NSW Government make a regulation that the payment of reasonable funeral expenses in the Workers Compensation (Dust Diseases) Scheme be increased to not exceed \$15,000, in line with the Workers Compensation Scheme statutory maximum.</p>	<p><b>Supported in principle</b></p> <p>Workers affected by dust diseases and their dependents are receiving better benefits and care than ever before under reforms introduced by this Government, which have significantly improved timely access to compensation and services.</p> <p>The Government acknowledges that the original intention of the Acts was for there to be parity between the Dust Diseases and Workers Compensation Schemes, and that this extends to the payment of funeral benefits. The Government supports this recommendation in principle pending further investigation of the financial and regulatory implications.</p>

**Recommendation 8**

That the NSW Government, through the Council of Australian Governments, liaise with the Commonwealth Government to ensure that periodic compensation payments paid to Workers Compensation (Dust Diseases) Scheme participants are not treated as income by Centrelink, to ensure that participants who receive benefits such as the Age Pension do not have their benefits reduced on account of their involvement in the scheme.  
Supported in principle.

**Supported in principle**

While the Government supports this recommendation in principle, it notes that it is the Commonwealth *Social Security Act 1991* that legislates that dust disease participants have their Age Pension benefits reduced on account of their participation in the Dust Diseases Scheme. Unlike other statutory compensation schemes in Australia, the *Workers' Compensation (Dust Diseases) Act 1942* does not contain age limitations. As a result, workers in receipt of workers compensation benefits under the Dust Diseases scheme receive benefits for life.