



NSW GOVERNMENT RESPONSE

2024 Review of the Dust Diseases Scheme

CONTENTS

Introduction	2
Response to recommendations	4

INTRODUCTION

The purpose of this report is to respond to the recommendations made in the Legislative Council, Standing Committee on Law and Justice Report No. 86, 2024 Review of the Dust Diseases Scheme dated June 2025. The NSW Government thanks the Committee for its work and acknowledges the findings and recommendations raised through the Committee's review of the Scheme. The comprehensive review focused on support for younger workers within the scheme and the risk factors and safety measures related to dust exposure in high-risk industries. The inquiry encompassed 18 written stakeholder submissions and four days of expert witness testimonies.

The Dust Diseases Care (DDC) scheme, operated by Insurance and Care NSW (icare), provides support to workers who have a disability as a result of exposure to hazardous dust in a NSW workplace, and their eligible dependants. According to icare's data as at 30 June 2025, there are approximately 1,805 workers and 3,242 dependants receiving support under the DDC scheme, with 378 workers impacted by a diagnosis of silicosis or other silica-related disease.

The NSW legislative framework for dust diseases provides the criteria for eligibility and entitlements available to workers and their families under the DDC scheme. The application of the *Workers Compensation (Dust Diseases) Act 1942* is challenging for silica-related claims in particular, as it is designed to support workers with asbestos-related diseases who are totally incapacitated for work and/or older and already retired. Its provisions must be applied in conjunction with the principle legislative instruments it sits under – the pre-2012 version of the *Workers Compensation Act 1987*, and for some definitional matters, the *Workplace Injury Management and Workers Compensation Act 1998*.

The Committee's report reaffirms the actions of the NSW Government to protect workers from deadly dust diseases. Actions undertaken include:

- Establishing the Tunnelling Dust Safety Taskforce to oversee and help address silica related health risks for workers in tunnelling projects. The Taskforce, made up of government, medical, industry and union representatives, provides expert guidance to prevent and manage silica and other dust related disease associated with tunnelling projects in NSW.
- A world-first domestic ban on the use, supply and manufacture of engineered stone products in Australia that commenced on 1 July 2024.
- Funding a team of dedicated silica safety inspectors. Since September 2024, the \$2.5 million investment has seen a Silica Compliance Team conduct multiple inspections and issue prohibition notices in tunnelling.
- The launch of a new \$2.5 million state-of-the art icare Lung Health Mobile Clinic in February 2025 which will provide lung health checks to thousands of people across regional New South Wales.

In line with the recommendations of the Committee's report, the NSW Government supports a holistic review of applicable legislation to address the matters identified by the Committee, and to consider legislative amendments where relevant.

The Government is committed to working in consultation with unions, employers, the Commonwealth and our agencies - SafeWork NSW, icare (including the Dust Diseases Board), and the State Insurance Regulatory Authority (SIRA) - to share information, data and insights to enable better prevention and treatment outcomes for workers diagnosed with a dust disease and support for their families.

Please see the Government's response to the final report's recommendations, addressed in the following sections.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

That SafeWork NSW prioritise the completion of the review of public feedback on the Silica Worker Register and implement, as soon as practicable, the necessary new regulations to commence the Silica Worker Register.

Supported

The NSW Government is committed to addressing the rising silicosis cases in NSW, including monitoring workers who are exposed, or at risk of exposure to silica dust. The Government supported the ban on engineered stone containing at least 1 per cent silica which came into effect in NSW on 1 July 2024.

The commitment by the Government included the development of a registration system to enable improved health monitoring for workers exposed, or at risk of exposure to silica dust. Changes to the *Work Health and Safety Act 2011* enabling SafeWork NSW to establish and keep a silica register were introduced to Parliament and a draft Work Health and Safety (Silica Worker Register) Regulation was released for public consultation, which has now concluded. The NSW Government has made the necessary regulations to commence the Silica Worker Register on 1 October 2025 with acknowledgement that PCBU's subject to Coal Service Order 43 are exempt.

This important regulatory measure demonstrates the Government's commitment to protecting workers from serious health risks associated with exposure to crystalline silica in NSW workplaces. This regulation represents a significant step forward protecting workers from occupational health hazards.

Recommendation 2

That the NSW Government consider amending the *Workers Compensation Act 1987* to provide:

- workers within the Dust Diseases Scheme a full salary replacement for 52 weeks (at a rate that truly reflects their previous salary, including regular overtime payments)
- workers within the Dust Diseases Scheme payments after 52 weeks at a rate equivalent to what a worker would receive under the Workers' Compensation Scheme.

Supported in principle

There is an increasing trend of workers aged below 60 years being diagnosed with silica-related dust diseases. As of September 2024, data from icare indicates 71% of silica related claims are made by workers under 60.¹ This presents challenges, as traditional

¹ icare, Submission No 12 to the Standing Committee on Law and Justice, *2024 Review of the Dust Diseases Scheme*, 10.

income supports for workers are typically designed for those who are closer to, or beyond, retirement age.

The NSW Government is committed to ensuring workers receive appropriate income support. The Government supports a review of the benefits structure under the DDC scheme with an emphasis on providing financial assistance to younger workers seeking to transition into alternative employment.

A comprehensive assessment and consultation is required to better understand potential options for reform. The NSW Government is committed to striking the balance between enhanced support for workers and maintaining the affordability and sustainability of the DDC scheme.

Recommendation 3

That icare review and expand the financial assistance it provides for career and educational counselling services for workers in the Dust Diseases Scheme, and to assist them in finding jobs in their chosen industries once they complete their courses, ensuring the assistance lasts for the duration of the training course and should not stop if the worker secures paid employment.

Supported in principle

Comprehensive career transition support is essential for helping workers navigate their changing circumstances to rebuild their professional lives and remove them from hazardous workplaces.

Workers who are job-detached, or engaged in vocational counselling may qualify for financial support during their transition to new employment. This special payment can provide assistance for up to 52 weeks.

The NSW Government welcomes the Committee's recommendation to review the financial assistance it provides for career and educational counselling services for workers in the DDC scheme. The Government acknowledges that meaningful career and educational support requires adequate resourcing and may necessitate enhanced service delivery models to meet the diverse needs of workers, particularly those from culturally and linguistically diverse backgrounds.

Consultation and identification of options to better support workers is required to be completed in conjunction with a holistic assessment of the scheme's current operations and future requirements. Any proposed reforms will be carefully evaluated to ensure they deliver meaningful improvements for workers whilst maintaining the affordability and sustainability of the DDC scheme.

The NSW Government will address the specific issues raised in this recommendation through the stakeholder working group process outlined in our response to Recommendation 5. This collaborative approach will ensure that any expansion of financial assistance for career and educational counselling services is evidence-based and responsive to the needs of those affected by dust diseases.

Recommendation 4

That icare develop enhanced vocational support and re-training options which focus on finding work of approximate equal salary to what the worker was previously receiving.

Supported in principle

The NSW Government recognises there is a gap in the current legislation which limits support and incentives for workers to return to work. In response, icare created vocational service programs to support workers who are partially impaired due to dust-related illness and still of working age. Programs include vocational counselling, retraining, certification and skill enhancement opportunities.

The NSW Government acknowledges there is an opportunity to establish a framework to enhance vocational support and facilitate appropriate retraining opportunities for these workers. Effective support extends beyond financial compensation to encompass the full spectrum of services needed to help workers navigate their changing circumstances, particularly those from culturally and linguistically diverse backgrounds.

The transition to a new job with a new employer in a new industry is a significant step for any worker. This challenge is particularly acute for workers diagnosed with silicosis or other dust diseases. Multiple factors beyond remuneration influence a worker's capacity and willingness to transition to alternative employment, including health considerations, transferable skills, age, family circumstances, and the availability of suitable opportunities.

This issue is also addressed in response to Recommendation 3 and through the stakeholder working group review in Recommendation 5.

Recommendation 5

That, within six months of this report, icare convene a working group of stakeholders to develop a program of re-education, re-training and vocational programs to support workers transitioning away from dust related working environments. The working group should also examine issues relating to barriers to accessing support including eligibility and levels of income support. The working group should consist of:

- union representatives from unions who cover high risk industries such as mining, construction and tunnelling
- employer groups who cover employers in high-risk industries
- support organisations who assist dust sufferers
- any other party that the Minister deems fit to appoint.

The working group is to develop a paper outlining the proposed program, no later than 12 months from its first meeting.

Supported in principle

The NSW Government supports establishing a stakeholder working group to review support programs for workers transitioning away from dust-related working environments. This

collaborative approach will ensure that the review and its recommendations are informed by the diverse perspectives and expertise of all key stakeholders.

The working group will address the issues raised in Recommendations 3, 4, and 5 through a holistic examination of current support services and identification of areas for improvement, to ensure it delivers meaningful improvements for workers whilst maintaining the affordability and sustainability of the DDC scheme.

Recommendation 6

That the NSW Government consider amending the *Workers' Compensation (Dust Diseases) Act 1942* to include provisions for:

- mental health services for workers upon entry into the Dust Diseases Scheme
- mental health services to be available for immediate family members of workers within the Dust Diseases Scheme

Supported in principle

The NSW Government acknowledges that coming to terms with life-changing consequences and/or shortened life span can be very challenging, particularly for younger workers and their families.

Psychological support is currently available for eligible workers in the DDC scheme whose diagnosis has impacted their mental health.

The NSW Government will review options to formalise these entitlements through legislative amendment to strengthen service delivery and ensure sustainable access to psychological support, including for immediate family members.

Grants for research and support funded by the Dust Diseases Board has helped to investigate the unique needs of younger people with silicosis, particularly in relation to psychological health, health literacy and long-term chronic care to optimise quality of life.²

Any proposed reforms will require consultation to ensure they deliver meaningful improvements for workers and their families while maintaining the affordability and sustainability of the DDC scheme.

Recommendation 7

That icare implement policies and develop resources that offer greater support to working-age culturally and linguistically diverse workers in the Dust Diseases Scheme, including:

- assisting with English lessons for return to work programs
- producing information in multiple languages, such as safety information at work, healthcare services to access and making a claim under the scheme
- hiring staff from diverse backgrounds.

Supported in principle

² icare, Submission No 12 to the Standing Committee on Law and Justice, *2024 Review of the Dust Diseases Scheme*, 17.

The NSW Government acknowledges that effective workplace safety communication is fundamental to preventing injuries and ensuring all workers regardless of their English proficiency, can work safely and understand their rights and responsibilities.

icare claim's data as of June 2025 indicates that among the 1,805 workers in the DDC scheme, 220 workers communicate in a language other than English as their primary language. An additional 305 have not specified their language preference.

icare prioritises the engagement of workplace rehabilitation providers who share the same cultural background and language as the worker whenever feasible. This approach aims to enhance communication and understanding throughout the rehabilitation process. icare have a built-in tool that enables the translation of any page on its website into 40 different community languages. Additional work is underway to publish key information to webpages which can be translated, including information for workers who have been recently diagnosed with a dust disease.

Further, the Dust Diseases Board has recently funded an initiative by the Lung Foundation Australia providing comprehensive, evidence-based resources specifically designed for Arabic, Chinese, and Vietnamese-speaking workers in high-risk industries. This initiative aimed to enhance awareness and offer crucial support to communities affected by dust-related diseases.³

icare also adopts hiring practices in line with obligations under anti-discrimination legislation and NSW Government policies, including diversity and inclusion plans and strategies.

Recommendation 8

That SafeWork NSW produce information in multiple languages and hire staff from diverse backgrounds.

Supported

The NSW Government acknowledges that effective workplace safety communication is fundamental to preventing injuries and ensuring all workers regardless of their English proficiency, can work safely and understand their rights and responsibilities.

SafeWork NSW currently provides silica resources in Arabic, Mandarin and Vietnamese. These resources can also be accessed on the Silica Dashboard website and can be translated into other languages using a web function.

SafeWork NSW provides guidance to employers in customising their communication to meet the specific information needs and capabilities of employees from migrant and multicultural backgrounds.⁴

³ icare, *Bridging the gap: new resources for dust disease awareness* <[⁴ Safe Work Australia, *PCBU information sheet: Communicating with migrant and multicultural workers about work health and safety* <\[>.\]\(https://www.safeworkaustralia.gov.au/doc/pcbu-information-sheet-communicating-migrant-and-multicultural-workers-about-work-health-and-safety\)](https://www.icare.nsw.gov.au/news-and-stories/2025/bridging-the-gap-new-resources-for-dust-disease-awareness#:~:text=Thanks%20to%20a%20DDB%20grant,gaps%20in%20awareness%20and%20care.>.</p>
</div>
<div data-bbox=)

SafeWork NSW also adopts hiring practices in line with obligations under anti-discrimination legislation and NSW Government policies, including diversity and inclusion plans and strategies.

Recommendation 9

That icare continue to provide compensation under the Dust Diseases Scheme to workers with a migrant background regardless of whether they return to their country of origin.

Supported in principle

The NSW Government is committed to providing compensation under the DDC scheme to workers with migrant backgrounds. As of 30 June 2025, icare provides compensation to 61 workers and dependants residing abroad.

Recommendation 10

That the NSW Government strengthen SafeWork NSW's role in resolving disputes under the *Work Health and Safety Act 2011* between authorised entry permit holders and persons conducting a business or undertaking to facilitate the provision of documents to workplace entry permit holders if there is suspected contravention.

Noted

The NSW Government is committed to revising work health and safety legislation to grant explicit rights to workplace entry permit holders, thereby enhancing their capacity to investigate and promote safety and compliance within the workplace.

The Industrial Relations Commission may deal with these types of disputes under the *Work Health and Safety Act 2011* section 142. Under the *Industrial Relations and Other Legislation Amendment (Workplace Protections) Act 2025*, the NSW Government has expanded entry permit holder rights and provided for registered organisations to bring proceedings for a contravention of a WHS civil penalty provision on behalf of the person affected by the contravention.

The NSW Government considers that these measures, taken together with a party's right to ask for the assistance of a SafeWork NSW inspector to assist in resolving the dispute, will facilitate the provision of documents to workplaces entry permit holders in the appropriate circumstances.

Additionally, Part 5 of the *Work Health Safety (Mines and Petroleum Sites) Act 2013* establishes Industry Safety and Health Representatives (ISHR) in the coal sector that are authorised entry permit holders as prerequisite to being appointed by the Minister for Natural Resources. ISHRs have the power to enter coal workplaces with or without notice, review the documented safety management system (SMS), participate in investigations, assist in the training of mine safety and health representatives, suspend operations, issue provisional improvement notice and accompany government officials.

Recommendation 11

That the NSW Government consider amending the *Work Health and Safety Act 2011* to provide workplace entry permit holders explicit rights to use portable device, take measurements, capture photos and record videos in relation to work health and safety compliance, including in relation to respirable crystalline silica, to enhance their ability to investigate and improve safety compliance.

Noted

The NSW Government has implemented the recommended amendments through the *Industrial Relations and Other Legislation Amendment (Workplace Protections) Act 2025*, which was passed by the Parliament on 27 June 2025.

The amendments provide for an entry permit holder to take measurements or conduct tests directly relevant to a suspected contravention and take photos and videos directly relevant to a suspected contravention.

These expanded powers enhance dust disease prevention by enabling real-time silica monitoring, creating objective evidence of workplace conditions, and facilitating independent analysis of exposure levels. The amendments include appropriate safeguards ensuring powers are exercised only where directly relevant to suspected contraventions.

Recommendation 12

That the NSW Government consider developing a Memorandum of Understanding between SafeWork NSW and persons conducting a business or undertaking regarding the sharing of data and information relating to respirable crystalline silica exposure levels to assist with future projections and health monitoring of workers for the purposes of enabling all respirable crystalline silica in air data to be accessed and considered by icare, SIRA, policy makers and researchers promptly when requested.

Noted

In March 2025, the NSW Government established the expert Tunnelling Dust Safety Taskforce. The Taskforce has a 10-point action plan to help address silica related health risks for workers in tunnelling projects. The 10-point action plan includes a focus on better use of data with more transparent access. There is an action for Taskforce members to collaborate to support access to data for research purposes. The Taskforce is actively considering this matter and will recommend a way forward for Government to consider.

The Industrial Relations and Other Legislation Amendment (Workplace Protections) Act 2025 includes amendments to the Work Health and Safety Act 2011 to enable the regulator to enter into information sharing arrangements and multi-party information sharing arrangements. Together with the silica worker register, this should enable SafeWork NSW to share more data and information to support future projections and health monitoring of workers regarding respirable crystalline silica.

The Resources Regulator is currently engaged in the collection of data and information regarding exposure levels to respirable crystalline silica. The NSW Government will consider this in any developments related to this recommendation.

Recommendation 13

That SIRA, to the extent that it is consistent with the principle of premiums reflecting risk, consider increasing the contribution levy to employers for workers involved in tunnelling, with a specific increased levy for those involved in mined tunnelling using roadheaders, to ensure the continued viability of the scheme.

Supported in principle

The NSW Government recognises the need to ensure the DDC scheme remains financially sustainable while maintaining risk-appropriate contribution levels and does not impact the affordability of Workers Compensation insurance.

The DDC scheme operates on a 'pay as you go' basis, managed by icare, which employs actuaries to estimate outstanding claims liabilities based on factors like historical claims data and expected compensation costs on an annual basis. SIRA's role is to determine the allocation of the total levy across Workers Compensation Industry Classification (WIC) codes and determine the amount payable for each WIC. SIRA does not determine the levy amount itself.

The NSW Government will consider a review of the contribution structure to better align levy rates with actual workplace risks. Any levy adjustments will continue to be evidence-based and balanced against the fundamental principle that premiums should accurately reflect workplace risk exposure.

Through this approach, the Government aims to maintain a robust and sustainable DDC scheme that adequately protects workers while ensuring contribution levels are fair and proportionate to actual risk. Risk pricing should be balanced with pricing affordability and volatility for Workers Compensation insurance. The Government recognises that a certain level of risk pooling and community rating will need to continue to be embedded in the levy rates determination.

Recommendation 14

That SafeWork NSW update the *Code of Practice for Tunnels Under Construction* to include the mandatory use of Powered Air Purifying Respirators in all tunnelling projects.

Noted

The NSW Government recognises the critical need for effective dust disease safety measures within the tunnelling sector. Specifically, it emphasises the importance of controlling and reducing dust exposure to safeguard workers from dust-related illnesses.

SafeWork NSW is currently rewriting the *Code of Practice for Tunnels Under Construction* (2006) in consultation with subject matter experts and key stakeholders. This work is scheduled for completion by the end of 2025.

Additionally, the Resources Regulator's position is that, mine operators that have workers carrying out the processing of a crystalline silica substance and use respiratory protective equipment as part its control measures must comply with AUS/NZ Respiratory Protection Standards AS/NZ 1716:2021 and AS/NZ 1715:2009 per s529B(3) of the WHS Regulation 2017.

Recommendation 15

That the NSW Government consider developing a consistent safety standard on the management of respirable crystalline silica for NSW Government funded tunnelling projects. The standard should:

- not be lower than has been adopted on any NSW Government funded tunnel project to date

- include best practice risk assessment, control, review, reporting and investigation requirements be a mandatory compliance element for tunnelling contractors.

Supported in principle

The NSW Government recognises the essential importance of maintaining the highest safety standards in the management of crystalline silica for tunnelling projects funded by the government and will consider this recommendation.

SafeWork NSW is committed to ensuring safety across all workplaces, extending beyond just government-funded projects. SafeWork NSW sets safety standards on the management of respirable crystalline silica for all businesses through the *Work Health and Safety Regulation 2025*. SafeWork NSW is currently rewriting the *Code of Practice for Tunnels Under Construction* (2006) in consultation with subject matter experts and key stakeholders. This work is scheduled for completion by the end of 2025.

Part of supporting consistent safety standards is ensuring adequate training on safety standards. The *Work Health and Safety Act 2011* (WHS Act) requires that a PCBU ensures, so far as is reasonably practicable, the provision of any information, training, instruction and supervision that is necessary to protect all persons from risks to their health and safety arising from work that is carried out as part of the conduct of the business or undertaking. SafeWork NSW continues to conduct educational, compliance and enforcement activities to ensure PCBUs are fulfilling their WHS duties in accordance with the law.

Transport for NSW also has a standard in draft, which considers the recommendations of the Tunnelling Dust Safety Taskforce and the development of the new Tunnels Under Construction Code of Practice.

The *Work Health and Safety (Mines and Petroleum Sites) Act 2013* also requires mine operators implement a documented safety management system that aligns with the *Code of Practice: Safety management systems in mines*, including for managing the risk of airborne contaminants. The NSW Resources Regulator provides detailed guidance on the monitoring and control of airborne dust, development of airborne contaminant plans, and regulatory expectations to prevent worker exposure to respirable crystalline silica.

Recommendation 16

That the NSW Government consider lowering the workplace exposure standard for respirable crystalline silica to 0.025 mg/m³ in the tunnelling industry to better protect workers.

Supported in principle

The NSW Government acknowledges the importance of minimising worker exposure to respirable crystalline silica.

The current workplace exposure standard (WES) in Australia is 0.05 milligrams per cubic meter (mg/m³) averaged over an eight-hour shift.⁵

The Government will consider this recommendation in line with NSW's commitment to adopting and maintaining nationally consistent Work Health and Safety (WHS) laws.

⁵ SafeWork Australia, Workplace Exposure Standards for Airborne Contaminants (2024).

Workplace exposure standards are developed through a tripartite process under the model WHS framework.

Safe Work Australia has previously reported that there is uncertainty in measuring respirable crystalline silica at 0.02mg/m³ in Australia and recommended that further work is required to measure standards and laboratory techniques prior to reducing it to this level.

Recommendation 17

That SafeWork NSW takes measures to include specific requirements for air monitoring for respirable crystalline silica in the *Code of Practice for Tunnels Under Construction* to ensure greater consistency and effectiveness of air quality control measures, leading to more reliable data and better management of air quality.

Noted

For any air monitoring conducted after 1 September 2024, it is compulsory to notify SafeWork NSW of any air monitoring results that exceed the workplace exposure standard (WES). Air monitoring results must be provided to workers and records of results kept for 30 years.

SafeWork NSW is currently rewriting the *Code of Practice for Tunnels Under Construction* (2006) in consultation with subject matter experts and key stakeholders. This work is scheduled to be completed by the end of 2025.

Recommendation 18

That the NSW Government consider introducing statutory roles for certified occupational hygienists and ventilation officers for tunnelling projects to ensure accountability and authority in relation to air monitoring and ventilation.

Supported in principle

SafeWork NSW is reviewing the *Code of Practice for Tunnels Under Construction* to make sure it is relevant and supports current and emerging work practices and technologies in the tunnelling industry.⁶

The NSW Government will consider this recommendation, noting that the Dust Tunnelling Safety Taskforce is actively considering best practice work health and safety controls and enhanced compliance measures as part of its 10-point action plan. The Government recognises the importance of professional expertise in managing air quality and ventilation in high-risk tunnelling environments and will assess the potential benefits of formalising these roles.

The *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022* also prescribes mandatory requirements for mine operators including for underground coal mines,

⁶ Evidence to Standing Committee on Law and Justice 2024 Review of the Dust Diseases Scheme, 2 May 2025, 35 (Mr Trent Curtin).

appointment of a ventilation officer and a ventilation auditor to monitor and manage standards.

Recommendation 19

That the NSW Government consider requiring all tunnelling projects receiving NSW Government funding to use the services of icare for screening workers and monitoring health related to respirable crystalline silica exposure.

Supported in principle

The NSW Government is committed to exploring ways to increase accessibility of screening services for workers exposed to dust in the workplace. It is critical that workers have timely access to health screening services and that there is consistency in the clinical pathways followed.

icare currently provides health screening services through its clinic in the Sydney CBD and a mobile clinic (Lung Bus) that visits regional sites across NSW. The screening service is free to workers and heavily subsidised to NSW employers who are obliged to provide health monitoring to their workers.

In the financial year 2024-2025, icare conducted screening for asbestos and silica related diseases on a total of 4,249 workers and clients. Among these screenings, 2,953 were performed by the Lung Bus, which visited 76 locations across NSW and 1,296 took place at the Sydney CBD Clinic.

icare has the ability to screen around 5,000 individuals each year by adhering to the current clinical pathways outlined in the SafeWork Australia Health Monitoring Guidelines, utilising both its fixed clinic and mobile service.

It is anticipated demand for screening services will rise with the launch of the Silica Worker Register. It is expected the Register will include a significant portion of the tunnelling workforce, estimated at approximately 6,000 workers involved in current projects across NSW.

The NSW Government are considering alternative options to ensure that workers have access to screening services and ways to centralise monitoring. This includes the sharing of information between SafeWork NSW and icare regarding the Silica Worker Register.

Recommendation 20

That the NSW Government consider mechanisms through which information held by private medical providers in relation to their screening of workers for exposure to respirable crystalline silica can be made readily available to icare.

Supported in principle

The NSW Government will consider appropriate mechanisms to share the information held by private medical service providers with icare subject to applicable privacy legislation.

The NSW Government has introduced amendments to the *Work Health and Safety Act 2011* that provides SafeWork NSW with powers to establish a silica worker register. SafeWork NSW has concluded the public consultation with the view of monitoring health of at-risk workers exposed to respirable crystalline silica dust.

The silica worker register will be used to share information between SafeWork NSW and icare. It will enable icare to capture information about workers who are not currently subject to health monitoring and reach out to their employers to offer screening services.

Recommendation 21

That the NSW Government consider allocating dedicated funding for a compliance team within SafeWork NSW to continue enforcing strengthened silica regulations for a further two years.

Noted

As part of the Silica Workplace Compliance Programs, SafeWork NSW implements regular proactive inspections in tunnels to oversee high-risk activities and the management of respirable crystalline silica. These inspections may include both scheduled visits and unannounced checks conducted alongside infrastructure, hygiene, and toxicology inspectors. Air monitoring reports for major infrastructure tunnelling sites are readily available on most sites and displayed on site notice boards and can be requested by the regulator at any time.

The NSW Government is committed to help address silica related health risks for workers. SafeWork NSW continues to maintain a dedicated silica compliance team and exposure to hazardous substances including crystalline silica remains a regulatory priority for SafeWork NSW in its Annual Regulatory Statement 2025-26.

Recommendation 22

That the NSW Government consider establishing a formal agreement between SafeWork NSW and Comcare to grant SafeWork NSW jurisdiction over tunnelling projects funded by the NSW Government.

Noted

SafeWork NSW has recently engaged Comcare on a proactive basis to ensure a consistent regulatory approach to tunnelling.⁷

The NSW Government will consider this recommendation in consultation with SafeWork NSW and Comcare, noting that there may be legislative implications.

Recommendation 23

That the NSW Government consider amending the *Workers' Compensation (Dust Diseases) Act 1942* to provide full compensation to any worker who has been exposed in New South Wales, regardless of whether they were also exposed in other states.

Not supported

⁷ Standing Committee on Law and Justice, NSW Parliament, *2024 Review of the Dust Diseases Scheme*, (Report 86, June 2025), [4.117], 74.

NSW provides compensation for workers affected by dust diseases that are “reasonably attributable” to the person’s occupational exposure in NSW. Other jurisdictions also provide compensation for workers who have been exposed to dust diseases in their jurisdictions.

The DDC scheme is funded on a pay-as-you go basis, through a levy paid by NSW employers as part of their workers compensation insurance premium. The average employer contribution is 0.03 percent of wages.⁸ Broader consultation with stakeholders and an assessment of cost impacts will be critical to ensure it provides sustainable support to affected workers.

The NSW Government will consider the establishment of an inter-jurisdictional working group to address the issues highlighted in this recommendation. This group will aim to identify and analyse the varying implications faced by workers with dust diseases when exposed across different states.

Recommendation 24

That the NSW Government engage an expert panel to review the list of diseases in the Dust Diseases Scheme, with a view to expanding the types of diseases included in Schedule 1 of the *Workers' Compensation (Dust Diseases) Act 1942*.

Supported in principle

The *Workers Compensation (Dust Diseases) Act 1942* provides a definition of ‘dust disease’ and a schedule of compensable dust diseases.

The schedule was expanded in 2022 to include diffuse dust-related pulmonary fibrosis, hypersensitivity pneumonitis, pneumoconiosis, silica-induced carcinoma of the lung and systemic sclerosis based on the recommendations of the Driscoll Review.

The 2024-25 DDC claims liability data reveals that workers suffering from Mesothelioma represent 60% of the total claims, while those with Asbestosis account for 21%. The remaining 19% of claims were attributed to individuals diagnosed with Silicosis and other dust-related diseases.

The NSW Government will seek to engage a multi-disciplinary expert panel as part of the consultation process to review the list of diseases in the DDC scheme as well as the definition of ‘dust disease’ in section 3 of the 1942 Act. Any proposal for expansion of the types of diseases the DDC scheme provides compensation for will be considered in context of the objectives of the scheme and the workplace exposure.

Recommendation 25

That the NSW Government explore ways to adequately compensate physicians who make and update records on the National Occupational Respiratory Disease Registry.

Noted

The National Occupational Respiratory Diseases Registry (NORDR) was established on 22 May 2024 and stores data on occupational respiratory diseases in Australia. At this stage silicosis is the only prescribed occupational respiratory disease which requires

⁸ icare, Submission No. 12 to the Standing Committee on Law and Justice, *2024 Review of the Dust Diseases Scheme* (11 October 2024), Appendix E, 21.

mandatory notification to the registry. Prior to the NORDR, physicians were required to update the NSW Dust Diseases Register maintained by SafeWork NSW, with notifications shared by NSW Health. Physicians in NSW are no longer required to notify silicosis to NSW Health.

There are guides available for physicians and other stakeholders regarding the use of the registry, but utilisation and mandatory reporting is low. Issues relating to reporting to the NORDR, including any associated costs, may best be reviewed holistically by the Australian Government through the Department of Health, Disability and Ageing.

The Australian Government is currently planning a 12-month review of the NORDR, which will be a key opportunity to engage on this matter.

Recommendation 26

That the Minister for Work Health and Safety consider writing to the Australian Minister for Health and Aged Care seeking an amendment to the *National Occupational Respiratory Disease Registry Act 2023* (Cth) to expand the scope and functionality of the National Occupational Respiratory Disease Registry:

- to include all diseases covered by the Dust Diseases Scheme, not just silicosis,
- to be used as a health surveillance tool.

Noted

The expansion of the National Occupational Respiratory Disease Registry (NORDR) to include other diseases could generally help support the health monitoring of workers across Australia. The initial focus of the NORDR is on mandatory reporting of silicosis, and voluntary reporting of other occupational respiratory diseases.

The NSW Government worked with the Australian Government in the development of the NORDR, and now sources silicosis diagnosis data in real-time from the NORDR for use in the NSW Dust Disease Register, and annual Dust Disease Report. As part of the Tunnelling Dust Safety Taskforce 10-point Action plan, NSW Health and icare will investigate improved use and accessibility of NORDR data.⁹

The Australian Government is currently planning a 12-month review of the NORDR, which will be a key opportunity to engage on this matter.

⁹ SafeWork NSW, 'Tunnelling Dust Safety Taskforce 8 April 2025 meeting communique' <<https://www.safework.nsw.gov.au/news/safework-public-notice/tunnelling-dust-safety-taskforce-8-april-2025-meeting-communique>>.