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Upper House Committees
Legislative Council
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Dear Ms Leeman,

Please find enclosed icare's responses to Questions on Notice and Supplementary Questions from the *2021 Review of the Dust Diseases Scheme*.

Yours sincerely

Clem Morony
Head of Ministerial and Parliamentary Support
icare

Review of the Dust Diseases Scheme – 18 March 2022

(icare)

Questions on Notice

QoN #	Transcript Page	Question	Answer
1	Page 39	**The Hon. ANTHONY D'ADAM:** In terms of the bookings, what is the hit rate? If you get a booking, does that mean that the worker gets screened? Or is there a proportion of drop-off where some workers actually do not front for the screening? What is that percentage? **NICK ALLSOP:** I would have to come back to you on that percentage. I do not believe it to be high, but I would have to come back to you with an actual number.	**This is not data Dust Diseases Care systematically tracks.**
2	Page 39	**The Hon. ANTHONY D'ADAM:** Does the information flow back the other way so that Health advises you of workers or worksites? Presumably there is a notification to Health. Health then says, "Okay, we need to reach out to this worker to get more details about the environmental circumstances that led to them developing the disease." That might then identify a worksite where other workers may have been exposed. Can you explain how that information loop works so that we are catching as many of the workers who might be exposed? I suppose a cognate question with that is has that process then exposed worksites that were not known to be identified through the SafeWork process that has been undertaken with the importers and suppliers? **NICK ALLSOP:** You may well be identifying a gap here because I do not believe—I would need to investigate and check—that NSW Health does detailed industrial histories on people who present to it directly with dust-related disease. I would have to take that on notice, check that and come back	**Information is provided by Dust Diseases Care to NSW Health. It is part of a notification system and informs the disease register maintained by NSW Health. icare is not aware of any individual investigation undertaken by NSW Health.** **NSW Health do provide data to SafeWork NSW, who may request further information from Dust Diseases Care to enable their workplace investigations. The information provided to SafeWork NSW would include data that did not come from Dust Diseases Care and hence may inform locations for additional screening or support.**
3	Page 39	**The Hon. ANTHONY D'ADAM:** Anyone who gets notified ultimately appears on your radar. Is that the case? **NICK ALLSOP:** Yes, they would likely come through. We would receive information around their screening. We would then gather industrial history information ourselves and refer that to our medical assessment panel to assess whether or not they have a compensable disease. **The Hon. ANTHONY D'ADAM:** Does that include posthumous notifications? If someone is posthumously identified as having silicosis and that has been notified to Health, is there some way that that information then makes its way back to icare in terms of dependants? **NICK ALLSOP:** I would have to take that away on notice. It would probably only occur if the dependants then sought legal representation and pursued a claim against the scheme. **The Hon. ANTHONY D'ADAM:** There is no automatic process? **NICK ALLSOP:** Not that I am aware of. **The Hon. ANTHONY D'ADAM:** So there is a gap there in terms of the information flow, perhaps? **NICK ALLSOP:** Potentially, yes. It is something we are pleased to take away and investigate.	**Applying for the Scheme is voluntary. There is currently no individual system of notification to Dust Diseases Care.** **Workers become aware of Dust Diseases Care when they use our screening services and are provided with information and assistance on how they can then apply for the Scheme. Workers who are diagnosed outside of the Dust Diseases Care system are made aware of the support available through their specialist, through legal avenues or through dust disease support services.** **This is the case for both workers and their dependents. Dependents can apply posthumously.**
4	Page 40	**Mr DAVID SHOEBRIDGE:** So 1,200 screenings, but we do not know how many actual workers that is. That is less than 1,200 workers. **NICK ALLSOP:** I would have to take that away on notice. Given the focus on going through every manufactured stone site, I do not believe there is a lot of repetition there. But there may be some, so we would have to take that away and come back to you on that.	**The 1,200 screenings referred to were just for manufactured stone and exclude repeat screenings.**
5	Page 41	**Mr DAVID SHOEBRIDGE:** If you can, on notice, indicate what strategies may be possible or that you would be considering to adopt to get to those. Mr Harding and Dr Allsop, one of the reasons I am particularly concerned about those sites is—when you talk to the workforce, they are the ones without the dust extraction. They are the ones without the adequate masks. They are the ones most exposed to significant inhalation of silica dust, and they are the ones we are not getting to. **RICHARD HARDING:** I think there is a leap of faith being made that we are not getting to these people. I am not objecting to your point. I am just saying there is a leap of faith being made that we are not getting to those people because we are not in those sites. Those people are employed by the installers. They are employed by the companies that are there. We are working through those. I am agreeing with the point that you are making, but I just think—let's not make an extrapolation that we are not getting to all of them.	**Dust Diseases Care is aware there may be a gap in reaching installers. It is not possible, based on the data available to Dust Disease Care, to determine how large any gap may be.** **Dust Diseases Care has recently worked with Caesarstone to access installers through their networks. This has resulted in an increase in screenings of installers who have not previously been screened by Dust Diseases Care.** **It is important to note that Dust Diseases Care Health Monitoring is not the only provider in NSW that screens for dust diseases, and we do not have any mandate to enter worksites to provide the service.**

6	Pages 41 & 42	**Mr DAVID SHOEBRIDGE:** Of the 1,200 scans, how many of those have been low-dose CT? **NICK ALLSOP:** Everybody that we are screening in the manufactured stone environment is offered CT scanning. I would have to come back as to whether it is all low dose or not. **Mr DAVID SHOEBRIDGE:** Is there a delay in getting to a low-dose CT scan? Do you take that to the workplace? **NICK ALLSOP:** Unfortunately we are not able to equip our lung bus with a CT scanner. The calibration requirements with that particular piece of equipment are such that it does not lend itself to being mobile. What we do is, where people present to our clinic in Sydney CBD, we get them same-day referrals to a local radiology practice—I think at Sydney Hospital—where same-day CT scanning occurs for them. Where somebody is seen on our lung bus, we arrange for a radiology practice in their area to provide that CT scanning. **Mr DAVID SHOEBRIDGE:** So there is no guarantee that they are low-dose CTs? **NICK ALLSOP:** I would have to come back to you on notice on that. **Mr DAVID SHOEBRIDGE:** Can you come back, on notice, about how many of these screenings have been CT scans, how many have been low dose and what the strategy is—I assume; correct me if I am wrong—for getting to 100 per cent low-dose CT scans if we can? Is that the strategy? Is that the plan? **NICK ALLSOP:** Absolutely.	**Dust Diseases Care does not systematically record this data. However, we use accredited imaging facilities who default to low dose CT scans whenever it is clinically appropriate.** **The most important consideration in CT scanning, is obtaining the resolution required to make the diagnosis. With silica related disease, diagnosis is difficult. The first consideration is to the resolution of the image, with the second consideration being the radiation dose.** **A poor-quality image will result in the CT needing to be repeated.** **Any worker with high exposure to silica dust in the manufactured stone sector is referred for CT screening. Not all workers take up this offer.**
7	Pages 47 & 48	**Mr DAVID SHOEBRIDGE:** Dr Allsop, you said, on notice, you would provide details about the screening. Could you break it down into what the occupation or exposure was of the 3,000 screenings we know so that we can get some handle on how many of them may be in this Venn diagram of construction work and silicosis? Can you provide us with that? **NICK ALLSOP:** We certainly can for the last couple of years, yes. **Mr DAVID SHOEBRIDGE:** I will just put ones that are fact checked that I have been doing while this discussion has been happening. There are about 380,000 people in the construction sector in New South Wales. I think we can all agree that pretty much every modern building you see has a fair chunk of manufactured stone in it—bathrooms, kitchens, commercial buildings often have lots more, terrazzo floors and the like. Even if we take the highest number of 1,500 workers, that is less than 0.4 per cent of the workforce. That number does not make sense to me. Can I ask you, will you be fact checking that number independently given you have that obligation to find the workers wherever they are, regardless of what SafeWork are doing? Will you fact check it? **RICHARD HARDING:** Yes. To the degree that we can, yes.	**The Dust Diseases Care Health Monitoring Service is not the only health monitoring provider in NSW. Currently, we have no mandate to enter worksites to provide the service, which makes the capture of all potentially impacted workers difficult. Similarly, employers have no obligation to use our specific service.** **See Tab A - Health Monitoring Screenings**
8	Page 50	**The Hon. ANTHONY D'ADAM:** Mr Klohk's evidence was that the service was pretty inadequate and that it was making recommendations that were clearly inappropriate to his circumstance. Perhaps on notice, given that you have not heard the evidence and you cannot make a comment about the specifics, you might be able to provide some feedback on those observations that were made by Mr Klohk.	**Traditionally, Dust Diseases Care has not provided service to people of working age who are not 100% incapacitated for work and as such, Dust Diseases Care had no prior experience of providing a return-to-work program.** **Dust Diseases Care commenced a vocational support program in 2019, using existing vocational providers working in partnership with case management staff and leveraging the support provided through some of the other schemes icare administers. Since 2019, this program has developed and expanded, and we have been able to work with providers to help them better understand the needs of this group of workers.** **The legislation Dust Diseases Care operates under specifies how workers in this position can be compensated. COVID has made job seeking very difficult for these workers over the past two years, not only due to limited employment opportunities but due to the anxiety associated with potentially being exposed to COVID when they have a silicosis diagnosis.** **Dust Diseases Care continues to work with vocational providers to enhance the support to workers in the scheme.**
9	Page 51	**RICHARD HARDING:** In respect to the evidence you heard this morning from Mr Klohk, we would be very happy—obviously individuals have different experiences through the sort of process that Dr Allsop has described. We would be very happy to talk to Mr Klohk and try to work out what happened with his experience and support him in whatever way we can.	**Mr Klohk has been contacted and support is being provided consistent with the Dust Diseases Scheme legislation.**

10	Page 51	**Mr DAVID SHOEBRIDGE:** It goes back to a point that I heard some evidence on. The dust diseases Act, I think it is section 8E, "Reimbursement of compensation from negligent third parties", it mirrors section 151Z of the Workers Compensation Act in terms of recovery. Have you (a) brought any recovery claims under section 8E, and (b) have you considered whether or not you can bring recovery claims from the likes of Caesarstone and others, which have no insurance in Australia, to cover their product? **NICK ALLSOP:** I think we would have to take that away on notice and come back to you as to whether or not there have been any of those sorts of actions.	**Section 8E of the *Workers Compensation Dust Diseases Act 1942* provides icare with the right to be reimbursed for statutory workers compensation paid or payable by Dust Diseases Care when a worker has also claimed common law damages from negligent, third-party non-employers. Recoveries under section 8E have been in place since 1 January 2002. In 2020-21 FY, icare issued 93 section 8E recovery notices with a total value of $2,571,769.46.** **Under section 8E, icare can recover monies from companies such as Caesarstone if they are required to pay common law damages as a negligent third-party non-employer. Third party non-employers can include companies that supply products that contain materials that can cause a dust disease or companies where a worker was exposed to dust on their premises as a non-employee. For example, Dust Diseases Care would be able to recover monies from Caesarstone under section 8E in circumstances where a worker employed by a benchtop installation company has made a claim for damages against Caesarstone as a company that supplied a product containing silica dust that caused that worker to develop silicosis. To date, icare has not recovered any monies from Caesarstone under section 8E.** **Dust Diseases Scheme is funded by employer contributions and any lack of ability to recover will not impact the entitlements of workers who developed a silica related dust disease in the course of their employment. It may impact on future employer contributions to the scheme but injured people will not be disadvantaged.**

(icare)

Supplementary Questions

SUPP #	Question	Answer
1	Regarding the treatment for silicosis, witnesses at the 2021 Review of the Dust Diseases Scheme on 18th March, Mr Kenneth Parker and Mr Andrew Klohk, explained that they were participating in a treatment trial using a drug that costs approximately $20,000 a month. (a) Will Mr Kenneth Parker and Mr Andrew Klohk be able to continue to access the trial treatment drugs for as long as necessary, without cost to them or their families?	**Dust Diseases Care has mechanisms to cover the cost of medical treatment, including new, evidence-based treatments. The specifics of the trials Mr Parker and Mr Klohk are involved in will be investigated.**
2	Regarding how victims of dust diseases are treated, Mr Robson, President of the Asbestos Disease Foundation of Australia and witness at the 2021 Review of the Dust Disease Scheme, stated that: “Since the dust board was disbanded and icare was set up, the attitude of caseworkers completely changed in my opinion and in some of my members opinions. That is how it comes across. Get them on the books, get them recognised as a victim, do it all but do it quickly, get them off the books- as simple as that.” (page 13 of Hansard) (a) Regarding this evidence of Mr Robson, what level of consideration is given by icare to deal with workers who are affected by dust diseases in the workplace? (b) Is there a specialised board or team within icare that deals with victims of dust diseases contracted in the workplace? (i) If not, in light of Mr Robson’s evidence, will icare consider establishing a board or team to deal with victims of dust diseases contracted in the workplace?	**The Dust Diseases Care team at icare provide specialist support to the victims of dust disease where eligibility for the scheme has been established. Establishing scheme eligibility as quickly as possible is one of the tasks of the team. Once accepted into the scheme, workers are supported for life.** **icare supports the Dust Diseases Care team with training and systems to enable them to provide empathetic support to everyone in the scheme. The feedback from people in the scheme is usually very positive. We continue to strive to deliver better services.**
3	How many manufactured stone workers had CT scans for silicosis: (a) In 2021?; and (b) 1st January 2022 to 18th March 2022?	**SeeTab A - Follow up CT Scans.**

TAB A

Health Monitoring Screenings

	30/06/2019	30/06/2020	30/06/2021	30/06/2022	Grand Total
Silica	**2407**	**1590**	**1924**	**421**	**6342**
Tunnelling	241	337	958		1536
Construction	735	381	45		1161
Other	437	192	333	141	1103
Manufactured & Natural Stone	125	256	337	116	834
Manufactured Stone	318	103	119	62	602
Mining	415				415
Brick Manufacturing	27	271	7	30	335
Natural Stone	6	50	60	46	162
Council	60		1	25	86
Cement Plant	43				43
Government			29		29
Demolition			24	1	25
Energy			11		11
Asbestos/Silica	**1153**	**1250**	**1769**	**523**	**4695**
Council	368	769	947	5	2089
Energy	261	269	497	325	1352
Other	347	177	249	166	939
Cement Plant	152				152
Construction	23	22	49	5	99
Demolition	1		19		20
Manufactured Stone		13	6		19
Government				18	18
Manufactured & Natural Stone				4	4
Tunnelling	1		2		3
Asbestos	**1722**	**616**	**687**	**40**	**3065**
Other	662	287	298	23	1270
Council	773	243	74		1090
Construction	72	75	194	2	343
Energy	155	4			159
Demolition	59	7	65	9	140
Government	1		56	6	63
Other			**11**	**9**	**20**
Energy			11		11
Other				9	9
Grand Total	**5282**	**3456**	**4391**	**993**	**14122**

Manufactured & Natural Stone	838
Manufactured Stone	621
	1459

Follow-up CT Scans

	30/06/2019	30/06/2020	30/06/2021	30/06/2022	Grand Total
Silica	**228**	**197**	**205**	**48**	**678**
Manufactured & Natural Stone	28	72	93	26	219
Manufactured Stone	104	53	28	5	190
Other	27	13	21	11	72
Tunnelling	13	14	33		60
Construction	37	10	3		50
Natural Stone	1	15	8	4	28
Brick Manufacturing		18		1	19
Mining	14				14
Government			14		14
Council	2	2	1	1	6
Demolition			3		3
Cement Plant	2				2
Energy			1		1
Asbestos	**87**	**60**	**25**	**2**	**174**
Council	19	48	3		70
Other	41	10	12		63
Construction	11	1	5	1	18
Demolition	6	1	4		11
Energy	9				9
Government	1		1	1	3
Asbestos/Silica	**67**	**42**	**43**	**12**	**164**
Council	20	30	28		78
Other	22	7	4	4	37
Energy	10	3	7	7	27
Cement Plant	12				12
Construction	3		3		6
Manufactured Stone		2	1	1	4
Grand Total	**382**	**299**	**273**	**62**	**1016**

Manufactured & Natural Stone	219
Manufactured Stone	194
	413