REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

2019 REVIEW OF DUST DISEASES SCHEME

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 20 September 2019

The Committee met at 10:30.

PRESENT

The Hon. Niall Blair (Chair)

The Hon Anthony D'Adam
The Hon. Greg Donnelly (Deputy Chair)
The Hon. Wes Fang
The Hon. Ben Franklin
The Hon. Trevor Khan
The Hon. Rod Roberts

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The CHAIR: Welcome to the second hearing of the 2019 review of the Dust Diseases scheme. This review is focusing on the response to silicosis in the manufactured stone industry in New South Wales. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today is the second of two hearings we plan to hold for this inquiry. We will hear today from a number of witnesses, including representatives from the Mine Ventilation Society of Australia, the Master Builders Association, icare and the State Insurance Regulatory Authority [SIRA].

Before we commence I will make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings.

It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing and so I urge witnesses to be careful about any comments you make to the media or to others after you complete your evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Witnesses are advised that any messages should be delivered to committee members through the Committee staff. To aid the audibility of this hearing I remind Committee members and witnesses to speak into the microphones. The room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties. Finally could everyone please turn their mobile phones to silent for the duration of the hearing.

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MICHAEL SHEARER, President, Mine Ventilation Society of Australia, sworn and examined

The CHAIR: Thank you for coming this morning. Would you like to make an opening statement?

Mr SHEARER: I just wanted to open up by stating the position of the Mine Ventilation Society of Australia in terms of the representation of its members. We are here to be of guidance and help to the Committee and to the industry. We would like to try to be a conduit between industry and the legislative bodies so that we can maintain or implement changes to current controls and help to better educate our workforce and our industry to make improved choices for improved outcomes.

The CHAIR: Thank you. Thank you for your submissions as well.

The Hon. GREG DONNELLY: Thank you very much for coming along to the inquiry and for your submission. It is a very precise and clear submission. It is much appreciated in terms of the detail and information it provides, which will directly assist us in our deliberations. Do you have a copy of your submission in front of you?

Mr SHEARER: Yes, I do.

The Hon. GREG DONNELLY: I would like to take you to the recommendations on the second page of your submission. The recommendations are listed 3.1, 3.2, 3.3, and so on up until recommendation 4 a few pages over. Is the way they are ordered a hierarchy of the way in which matters that are dangerous in the workplace are dealt with in terms of occupational health and safety? Have those recommendations been listed in that particular way deliberately, and, if they have been, can you give an overview of that and how that feeds into your recommendations?

Mr SHEARER: You are correct. That is the hierarchy control that is put into all health and safety management plans. The first question is: Can we eliminate the risk? That is for the whole industry, whether we are talking about the stone bench industry, tunnelling or mining. The second step is substitution. Can we substitute the particular material that we are trying to develop or create? Then there are engineering controls, with engineering controls being the best in this case. Can we remove the person or activity from where people are? The best outcome is to eliminate or mitigate the potential source of whatever the contaminant is, whether it is silica or gas. That way you are controlling it at the source. Then administrative controls are there, including management plans on how we are going to go about that, what controls need to be in place and what rules or guidelines need to be followed in that. Then respiratory protective equipment [RPE] or personal protective equipment [PPE]—however you want to say it—would be the last line of control.

The Hon. GREG DONNELLY: Thank you for that. That reaffirmed my thoughts in terms of the structure of those recommendations. Thank you for explaining that to us. We have received evidence through submissions and another hearing day on Monday, when stakeholders, individuals and organisations come in to give evidence and explain this issue. It was explained to us that it is complex in this way. With respect to the material which we are looking at that is not manufactured here in Australia. It actually arrives to Australia through our ports, through our seaports. It is produced mainly, from memory, in Israel, Vietnam and there was a third country—

The Hon. ROD ROBERTS: China.

The Hon. GREG DONNELLY: And China. Thank you. It comes through our seaports. It is obviously imported. And then from that point it presumably then comes through customs and then gets into a supply chain, a distribution supply chain—presumably through a third party, brokers, agents whatever. It then comes in and ultimately into the country. Obviously we understand where those seaports are. A lot are concentrated in the large cities. If you are talking about New South Wales we know where they are, primarily most of it would be through Port Botany. Much of it then goes, obviously in the context of Sydney itself, to largish sites where the material is then cut. It might be cut for specific fitting into places that consumers through their builders have made the purchase for it to be fitted in. That could be custom-cut quite specifically. Or it might be cut in a form which is not quite custom-cut, but is cut in a form close to but needs further refinement in terms of cutting to fit in specific spaces where this is used in the building construction industry.

With respect to the manufacturing sites where this is cut from the bulk source that comes in, those sites in some sense, a number of the biggest ones, could be readily identified. The union or unions involved in work in this area and covering workers at these sites would be aware of those. But as one cascades down the supply chain and it is moved onto other sites, it is very hard to know where all this is being done. With respect to the big sites, and this is my question and sorry for the long run up on this, the elimination argument with respect to the exposure seems to be very strong in terms of a significant capacity to eliminate exposure at those big manufacturing sites

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if it is done well to a particular high standard. Although we have had some evidence that even with wet-cutting there is not complete elimination and I would like your comment on that if you can help us.

But—and this is my specific question—as you go down the chain and it becomes diffused in terms of distribution and work being done on it, the elimination capacity effectively seems to completely disappear. It does not exist. So you have workers working on or close to sites where it is being cut specifically to fit or being refined in terms of its shape to fit into spaces, where you have got virtually no knowledge of where this is being done and no controls. Once again sorry for the long run-up. But with all of that can you bring your specific comments about how you think this can be tackled because it is obviously a complex scenario we have got here? With that hierarchy you have described, with what I have given to you in addition to what you know about this particular matter of silicosis and the management of this dust, can you give some specific comments about applying those principles to this industry?

Mr SHEARER: I guess the first thing is as an industry we all have a duty of care. As an employer to employees and then manufacturer down to their subcontractors, subcontractors down to the people that are performing the installation works. Then I go back to the hierarchy of control. Obviously administrative controls take somewhat part of that presence, but also the elimination or the engineering controls in this instance. There are a lot of other kinds of products that are out there in the industry as a whole—like in the building industry, for instance, where there are now drills where they have vacuums on them, whereas previously people would drill into gyprock or stone or whatever the case may be and a lot of dust was created. There was no safe way of being able to capture that nuisance dust—we will call that a term for respirable dust in this instance. With regards to the source of the material in the first instance, I am not up to speed on what the silica quartz content of the imported stones are.

The Hon. GREG DONNELLY: Quite high.

Mr SHEARER: Yes.

The Hon. GREG DONNELLY: In the 93 per cents or thereabouts, or 90 per cent.

Mr SHEARER: Yes, I did read that in the submission, whereas the geological formations of the Sydney sandstone basin is 73 per cent. So there is somewhat of a comparison. I guess in regards to what kind of controls you require, it is always going to be site-specific. But as we have said further in our submission, engaging with an occupational hygienist—a competent person—seen with a ventilation engineer who is competent in that field to understand and help to engage with the manufacturers and the employees, because there has got to be that buy-in from everyone so you can tailor a specific solution for that particular task or a manufacturing type of outcome.

The Hon. GREG DONNELLY: I will pass on quickly because I do not have time. But would you agree with the proposition that with respect to the elimination aspects to this—and I am not anticipating what this Committee might finally determine, so please do not misunderstand me. But with respect to the large manufacturing sites—and I will leave "large" as an open question—that clearly your thoughts around elimination there being able to be capably done using what is readily available as technology like we have described, that that is something we should be focusing on to ensure that we can raise the bar at that high level to get that done? That is something that can be done and we might just have a debate around the edges of what "large" is, but we can see there is real work to be done there to immediately lift standards. Would you agree with that?

Mr SHEARER: Standards, yes, like the levels of exposure—specifically lowering the levels of exposure is not really going to take care of, in the first instance, eliminating or trying to mitigate the potential source. I think more work needs to go into actually controlling the source and some more research. As we have mentioned in a submission, there are control measures that can be utilised with water. But there is more research—I recently attended the North American Mine Ventilation Symposium in Montreal and there were some researchers there from NIOSH who were doing more and more research on water droplet size to try and mitigate or capture the actual particle sizes. I believe that more research needs to go into trying to understand the beast, but also trying to help the industry move forward and also to make sure that the workers that are on the floor, whether it be the stone bench industry or mining or tunnelling—whichever that the industry is, is helping to empower and engage to educate those people as well.

The CHAIR: Mr Shearer, NIOSH—what is that acronym?

Mr SHEARER: Sorry, I will take that on notice.

The CHAIR: That is okay, we will check it out. Is it the National Institute for Occupational Safety and Health?

Mr SHEARER: That is correct, thank you.

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The CHAIR: We just need to check that for *Hansard*. Just two quick things from me. In your submission—and you just mentioned it then—you certainly do not support a lowering of the workplace exposure standards. That is very clear from your submission.

Mr SHEARER: That is correct, yes.

The CHAIR: Rather than reducing the bar to try to fit everyone in, we need to make sure—and your submission refers to this—that we have proper awareness campaigns and utilise them, as you have said, in your whole hierarchy. Do you believe rather than lowering the standards we have the technologies and the capabilities to be able to meet those workplace standards?

Mr SHEARER: That is correct. As I mentioned, more research needs to go into certain areas—in regards to your statement earlier, Mr Donnelly, with regard to the water cutting or wet cutting. More technology or more research is needed. We have universities; we have a collective pool, an internationally experienced team with the Australian Institute of Occupational Hygienists.

The CHAIR: How reasonably practicable is that? That is why there is the hierarchy down to PPE, is that right?

Mr SHEARER: Yes.

The CHAIR: A lot of the other control measures may arguably be not reasonably practicable, maybe because of cost or access et cetera, so we get down to PPE. In this space, do you think it is well and truly something that can be achieved, one, without reducing the standards, as your submission says?

Mr SHEARER: Yes.

The CHAIR: But more importantly, you talk about awareness campaigns. Is that where the ball has been dropped?

Mr SHEARER: I believe it is an area in which we can do a lot better. I also believe that our personnel need to take some ownership of that as well, like with the clean-shaven policies that a lot of mining and tunnelling operations have taken on board.

The Hon. GREG DONNELLY: What does that mean—clean shaven?

Mr SHEARER: That means coming to work clean shaven. It is so that the PPE—

The Hon. GREG DONNELLY: Sorry, yes, I wear a beard. I thought it might be a term about the shaving of the surface.

Mr SHEARER: No, being clean shaven. There is a lot of literature out there that actually shows how small the micron sizes of silica dust are in regards to the size of a hair. It is making sure that whatever the PPE—whether it is a P2 or P3, full-faced—that is where you are putting people in the line of fire. It is making sure that those controls are effective and then using the occupational hygiene monitoring to be able to measure and monitor those conditions to ensure that the effectiveness of those PPE are within the exposure limits and whatever the protection factors are.

The Hon. WES FANG: Thank you for your submission, Mr Shearer. I read it with great interest. On Monday we heard from some of the union groups that were suggesting that the best course of action for us is, as you have identified, either eliminate the risk—banning silica-based manufactured stone—or substitution where another product that has a much lower silica content. I forget the name of the product they proposed. Being in mining ventilation, your organisation is based around engineering solutions to those sorts of problems. In this instance, do you think that we can achieve a solution to the risk through engineering or do we potentially have to go down the path of substitution or elimination as suggested by the unions?

Mr SHEARER: First, I think substitution would have a detrimental economic impact. Regardless of whether you have the pure item—in this case, about 93 per cent silica—the substitute would have some kind of content, whether it was silica-based or—I have read some other research. Most of the things that we create that are some type of polymer or whatever the case may be, they have some kind of quartz content, silica content, because that is the main building block for everything that is in the world in that instance. By substituting you have not really eliminated the issue. So better education, making people aware, identifying what may put people more at risk. There are a lot of other nasty things out there in the world that we deal with, whether it be asbestos, coaldust, silica or diesel particulate. There is a whole range of things that are not very good for human health. But if we are not trying to work towards trying to lower the output or the risk, then we really have not achieved solving anything. We have just shifted the mark and we are still continuing to create dust.

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The Hon. WES FANG: Part of the testimony we heard on Monday was that site cutting in particular is the most problematic. In a workshop environment we have some more control—wet cutting, extraction devices et cetera. It is when we get to site. Do you think that it is possible that we could have engineering solutions in a controlled environment like a workshop, but then potentially have an elimination model where we ban onsite cutting so that benchtops that do not fit have to go back to a controlled environment, or the cabinetry surrounding the benchtop has to be moulded to fit the benchtop, as opposed to the benchtop being fitted to the cabinetry?

The Hon. TREVOR KHAN: The main problem is against the external walls and the like. That is why you have to do the adjustment in terms of the cutting on site.

Mr SHEARER: I come from the building industry so I am fully aware of the issues that you are talking about.

The Hon. WES FANG: Do you think that splitting the two issues and potentially putting an engineering solution on one and then an elimination process on the other would see a benefit, or do you think it is too hard to implement?

Mr SHEARER: As I mentioned, I used to work in the building industry. It would become very problematic to need to take, say, in this instance, two millimetres off the back of the benchtop because not everything may line up. You might have one group that is actually making the benchtop in this instance and another group that is making the cabinetry and there could be miscommunication. Then also dismantling, taking it back to site, would just compound the issue. As I mentioned earlier, there are a lot of available items. I will not mention any specific brand names, but there are a lot of drills out there that we use in the industry that have vacuums on them. You can get ones with high-efficiency particulate air [HEPA] filters. I think understanding what task needs to be done.

Having a safe work method statement [SWMS], as in, "Okay, what do I do or what do I need to do? Okay, what controls do I need to have in place?" Bearing in mind that if you are already out on site you are already in somebody's home. It may be a refurbishment, it may be a new build. It is understanding and getting, one, the education and, two, the compliance of whoever the contractor or the supplier is, and going through all of that checklist. Having competent people that actually understand their duty of care. Everyone needs to take ownership, wherever you sit in the chain.

The Hon. ANTHONY D'ADAM: Mr Shearer, I do not want you to take my line of questioning as a personal attack on you but this is an evidence-gathering process and we have you here in an expert capacity, so I just want to focus on the level of your expertise. In your submission at 3.1 you talk about elimination having an impact on the livelihoods of workers and on the industry. That is really an economic analysis. You are not an economist, are you?

Mr SHEARER: No.

The Hon. ANTHONY D'ADAM: Was the submission informed by economic analysis? Were there economists involved in the preparation of the submission?

Mr SHEARER: No, it was a collective submission from our society—from our committee.

The Hon. ANTHONY D'ADAM: In terms of expertise, you are not in a position to make comment about the economic impact of elimination as a strategy, are you?

Mr SHEARER: No. Can you put a monetary value on it? No, we cannot.

The Hon. ANTHONY D'ADAM: I am going to your expertise in terms of what you bring to this Committee in terms of the presentation methods. We should place fairly low weight on the recommendation around elimination because it has an economic impact. Is that fair to say?

Mr SHEARER: Potentially, yes.

The Hon. ANTHONY D'ADAM: Thank you. In terms of substitution, which is the next recommendation you consider, you talk about the impact of silica—the prevalence of silica—and therefore the impossibility of it being eliminated. The question of silica is still the impact. We are dealing with the manufactured stone industry, which is the focus of this inquiry. On the evidence that we have received so far, it is not necessarily silica alone that is the driver of the silicosis arising from the manufactured stone industry. We have heard evidence that it may be something to do with the interaction between the silica and the polymers that are used in the manufacture of manufactured stone products. Do you have medical expertise? Are you able to provide some expert evidence on the impact of silica and its causative effects in terms of silicosis?

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Mr SHEARER: Personally I am not an occupational hygienist but I will take that on notice because one of my colleagues who helped put the submission together is an occupational hygienist—so he would be better equipped to answer that question for you. It is more around the potential for ill effects.

The Hon. ANTHONY D'ADAM: We have not had the same experience from the evidence so far, of the impact of cutting in the use of Sydney sandstone, for example. It seems to be something about the manufactured stone product that is driving a higher incidence of silicosis.

Mr SHEARER: That may also be driven by the lack of understanding or the lack of controls put in place in that particular industry, as well. That may be a catalyst. With those specific instances it could be other health and environmental issues, as well.

The Hon. ANTHONY D'ADAM: In terms of manufactured stone there are other substitute products—you can use granite, you can use wooden benchtops—there are other viable substitutions for this product.

Mr SHEARER: Yes.

The Hon. ANTHONY D'ADAM: It is not necessarily true, as you say in your submission, that there is not really an option of substitution in those circumstances. Is that correct?

Mr SHEARER: That is correct.

The Hon. ANTHONY D'ADAM: Coming back to the line of questioning that the Hon. Wes Fang was pursuing around engineering controls, which I think your submission is primarily focused on—the engineering controlling solution. You mentioned the availability of drills with vacuums that can eliminate dust. In your evidence you do not seem to identify specific engineering controls for the problem of cutting onsite.

Mr SHEARER: The submission never spoke specifically about onsite. The submission was looking at a generalised view. If you would like to get a step by step or task by task—if that was made known at the time, perhaps we could have put more of that stuff in the submission, which is why I am speaking about it now.

The Hon. ANTHONY D'ADAM: Are you able to elaborate on—

The Hon. GREG DONNELLY: Point of order: I am happy with the line of questioning but I think Mr Shearer—I took it from my opening questions to now and what he specifically said in answer to your question that this has been put together as a general submission. I think that is pretty obvious to everyone, it is a general submission. He has indicated he will take a specific answer to a question that you just made to get specific detail for you. He then went on to say that it is a general submission. If you have got a specific question I think you should indicate to him that if he can't answer it—

The Hon. ANTHONY D'ADAM: I am coming to my specific—

The Hon. GREG DONNELLY: No, let me finish—that you will invite him to put him on notice so he can go away and within the 21 days provide the answer you want to this specific question. He clearly has said that this is a general submission and that is what this is intended to be. This is not an ambushing exercise. If you have got a specific question the gentleman should be given—let me finish—the opportunity to answer the question with the opportunity to prepare with sufficient information to give you your answer.

The Hon. ANTHONY D'ADAM: To the point of order: I am actually getting to a specific question. The witness is coming to the inquiry to provide further information to the submission. I am merely trying to establish whether the witness has further information available at the moment.

The CHAIR: The one thing I am mindful of is the time. What I would invite is if Mr D'Adam could ask his questions and get to those relatively quickly; anything that we do not have time for Mr Shearer to answer this morning can be put on notice as well. I want to offer the opportunity to Mr Roberts and, if necessary, Mr Franklin and Mr Khan to ask some questions as well. We have gone overtime already. I am prepared for us to go a little bit further. Let us just cut to the chase and there may be opportunity, if there is not information at hand, that Mr Shearer can take it on notice.

The Hon. ANTHONY D'ADAM: My specific question is: Do you have knowledge of a specific engineered solution to that problem of cutting onsite? I am happy for you to take that on notice if it is not something you feel able to consider today.

Mr SHEARER: I will be able to provide you with more evidence. I will take it on notice. There are different types of equipment that are available out there in the marketplace. As I mentioned, it is all going to be task-specific and the controls around should be that people actually take the time to scope out exactly what they need to do, how they need to do it and what equipment they actually need to provide to ensure that everyone in that workspace is safe.

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The Hon. ROD ROBERTS: I have no questions. Mr Shearer's evidence itself in his submission is more than adequate as far as I am concerned.

The Hon. GREG DONNELLY: I have got some questions but I will put them on notice because they are quite specific and the gentleman obviously needs an opportunity for some research to be done for the answers.

The CHAIR: Mr Shearer, thanks for your time this morning. We do understand that you are making a representation on behalf of a society that involves a range of people. We do acknowledge the fact that your submission is generalised. The committee will probably follow up with some further questions—or the questions you have taken on notice—to give us some of those specific examples. Thank you for your time this morning. There are a couple of questions that you have taken on notice. You will have 21 days to respond to those.

Mr SHEARER: Yes.

The CHAIR: The secretariat will liaise with you to facilitate a response. As I said, if there may be a couple of follow-up questions we will put those in writing to you as well.

Mr SHEARER: That would be fine. I am more than happy to help.

The CHAIR: Great. Thanks for your time this morning.

(The witness withdrew.)

(Luncheon adjournment)

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PETER GLOVER, Director Construction, Master Builders Association, affirmed and examined

DAVID SOLOMON, Executive Officer-Safety and Risk, Master Builders Association, affirmed and examined

The CHAIR: Thank you for your time this morning and also your submission. I would like to confirm before we commence, Mr Solomon, you signed off on the submission on behalf of the Master Builders?

Mr SOLOMON: That is correct.

The CHAIR: Would you like to give an opening statement?

Mr GLOVER: Just a brief one. Master Builders appreciates the invitation to attend today's hearings and provide evidence to the Committee. The Master Builders submission, dated 12 August, was compiled following consultation with our members and a number of industry consultative forums, as identified in our submission. The work that we did in the submission is a reasonably high level of work, it is not work that we sought to drill down into individual workplaces and incidents. It was done at an industry level. I think it is important that we give that context.

The Hon. ANTHONY D'ADAM: Regarding your first recommendation, I am not familiar with the asbestos safety controls that apply. Can you talk us through that recommendation in more detail?

Mr GLOVER: Yes, certainly. Perhaps I might ask Mr Solomon, who has probably been more closely involved with the consultation that we had in the lead-up to this than myself.

The Hon. ANTHONY D'ADAM: If you could focus on how that might assist, specifically relating to the manufactured stone industry.

Mr SOLOMON: The rationale behind the first recommendation is that there are controls in place with asbestos at the moment. There are laws, there are industry best practice controls, risk assessments, air monitoring, activities on site that industry well know. Whereas, with silicosis it is quite broadly unknown and we are suggesting that something in place is better than nothing in the interim, as opposed to a kneejerk reaction and just blanketly stopping businesses from working. To what degree of safety is a safe working environment would be where we are concerned.

The Hon. ANTHONY D'ADAM: Because of my lack of familiarity, do the controls involve restrictions on sawing of asbestos, for example?

Mr SOLOMON: No, it is the exposure in the air and your exposure to breathing it in. It would be personal protection equipment, air monitoring and the way you contain that dust. Asbestos largely comes out of the ground and has been used over many years as a binding agent. It is only when you create dust small particles that it becomes bad for your health.

The CHAIR: Can I jump in? It is well established within the industry that asbestos is basically throughout and the risk associated with it is the disturbance of the asbestos to make it airborne?

Mr GLOVER: Yes.

Mr SOLOMON: Yes.

The CHAIR: Therefore, rather than just saying we have to remove every piece of asbestos tomorrow. We have stopped using it but the industry is well versed in how to work in and around that product.

Mr GLOVER: Yes.

The CHAIR: Is it your submission that because that is adhered to largely—it is policed, it is legislated and there are controls in place—rather than saying tomorrow we should stop using these manufactured products immediately, linking it and saying that this is the new asbestos for the construction industry, highlight the dangers and then say that there is the same regard around the use, handling, transportation and disturbance as there is with asbestos?

Mr GLOVER: Indeed, yes. One distinction that could be drawn depending on circumstances with asbestos is that sometimes it is best left alone. It is only when it is disturbed that the difficulties and all the dangers can arise.

Mr SOLOMON: To that end it is the—

The Hon. TREVOR KHAN: What disturbs me about that is we have come to a position on asbestos because it is so out there. On so many levels it is impossible to get back from the position because there is so

much out there. Manufactured stone is not the same as asbestos in that sense because what we are talking about in the manufactured stone industry is that it is coming onto the market. Workers are out there getting exposed because they are cutting it up or grinding it. I am not entirely comfortable with a straight analogy of asbestos.

Mr GLOVER: You are right. There are two parts to that. I would suggest that the first one is the asbestos part. If it is left alone and it is not broken, chipped or disturbed then it is best just left alone.

The Hon. TREVOR KHAN: But if you applied that to manufactured stone, you would leave it in the container after it got of the ship.

Mr GLOVER: That was the second part I was coming to. I accept your proposition. Yes and indeed it is not just limited to stone, it is brick, tiles—

The CHAIR: Cement.

Mr SOLOMON: Cement, concrete—

Mr SOLOMON: Plasterboard.

Mr GLOVER: Yes. Stone is not always cut in a factory situation. It can be cut in situ onsite as can concrete. Bricks are cut regularly onsite. Tiles are cut onsite. There is any number of products that when they are cut, particularly onsite rather than in a controlled environment in a factory setting perhaps, where silica dust can come about. The controls that need to be considered are varied depending on the environment in which the cutting is being done.

The Hon. WES FANG: Is your expectation that the asbestos safety controls, if they were implemented, would be a stopgap measure until a safe work method for handling silica-based manufactured stone can be developed and implemented across the industry? This is the gold standard in dealing with a product which has legal dust issues. We will apply that for a short time until we can develop proper work methods?

Mr GLOVER: In a sense.

Mr SOLOMON: In a sense if you use that analogy of the gold standard for asbestos. We would be suggesting to apply the gold standard to silica in the interim. Maybe when we have the right data based on the new controls that are available to us today to control dust you might then apply the platinum standard to silica thereafter.

The Hon. WES FANG: Is it your expectation that the asbestos-handling standards would be higher than what is required for handling silica-based manufactured stone?

Mr GLOVER: In certain circumstances it may well be, yes.

The CHAIR: We are going to come to Mr D'Adam because he started his questioning, but this is not a direct mirror of what happens in asbestos; you are just saying—

Mr SOLOMON: In principle.

The CHAIR: —there is another product out there that when it is airborne and is inhaled becomes a problem for the individual?

Mr GLOVER: Correct.

The CHAIR: Therefore, we should take the lessons learnt from that and apply them to the existing product that we now know, when it is airborne, is dangerous, plus then go into those other questions around what levels we should set the controls at, what the minimum exposure standard should be—which is part of the review—and then what do we do with these products? Do we start to stop them coming in so we do not have more of the exposure going forward? Is that a summary of what this direct link or weak link is?

Mr SOLOMON: That is not a bad synopsis.

Mr GLOVER: I think generally that is correct. Whether you stop products coming in is perhaps another question.

The CHAIR: What you are saying is: If you put a stop to anyone touching this product tomorrow, that has a limiting effect on the construction industry?

Mr GLOVER: Yes, absolutely. I understand that the remit, if you like, of the Committee is around manufactured stone but our point is that it is broader than that. The controls that you might put in place around, say, cutting stone on a building site, need to also be considered when you are cutting other products that, when you cut them, do result in silica dust being present.

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The Hon. GREG DONNELLY: Like what?

Mr GLOVER: Well, tiles, bricks.

Mr SOLOMON: Concrete when people are grinding slabs.

The Hon. ANTHONY D'ADAM: Do you have evidence that exposure to those products is causing silicosis? Do you have evidence of that?

Mr SOLOMON: All those materials have documented having different percentages of silica in it so when you create dust your exposure is the same. You have just got a smaller percentage that you are going to inhale.

The CHAIR: So every bag of cement powder—

Mr SOLOMON: Has got it.

The CHAIR: —has a safety data sheet [SDS] with it that highlights a level of crystalline silica in it?

Mr SOLOMON: Yes.

The CHAIR: So even using the bag before you are cutting it, before it becomes a bonded product, has exposure to crystalline silica?

Mr GLOVER: That is right.

Mr SOLOMON: And examples of when people are grinding slabs when they are either finished or in a house. If you want a concrete polished floor, that has got silica in it. If you apply the highest level controls to cutting bench tops and if that filters then through to the rest of the industry, it will slow up construction—and I am not worried about productivity inasmuch as safety—but you will find everyone will be walking around in respirators all day in a normal atmosphere as opposed to a controlled environment cutting a silica benchtop which needed high levels of control. You would find bricklayers wearing respirators.

The Hon. TREVOR KHAN: Well, you wouldn't, would you?

Mr SOLOMON: That's our point. Exactly.

Mr GLOVER: We are flat out getting them to wear shirts.

The Hon. ANTHONY D'ADAM: But the medical evidence that we have had so far suggests that it is something more than silica; it is something about the manufactured stone product itself.

The Hon. TREVOR KHAN: I do not know that that is so. They have advanced that that may be a theory.

The Hon. ANTHONY D'ADAM: Well, that it is unknown, so it is conjecture.

The Hon. GREG DONNELLY: But it is clearly stated on the evidence.

The Hon. ANTHONY D'ADAM: It appears to be that it is the high concentrations of silica so in a sense your submission that those other products are equally hazardous is not correct?

The CHAIR: I think they are saying you cannot apply the same standards for a manufactured stone to mixing a bag of cement otherwise everybody would be running around in respirators. That is the point, is it not?

Mr SOLOMON: That is exactly right.

Mr GLOVER: Correct.

The CHAIR: So this has to be a response that is directly relevant to the risk associated.

Mr SOLOMON: Absolutely.

The CHAIR: And no-one is in disagreement that mixing a bag of cement to add mud for brickworks versus cutting a manufactured stone bench top requires different control measures?

Mr GLOVER: That is right?

Mr SOLOMON: That is exactly right.

The Hon. ANTHONY D'ADAM: So you agree that the manufactured stone requires a different approach to those other products?

Mr SOLOMON: Well, a higher level of control.

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Mr GLOVER: A higher level, yes.

The Hon. ANTHONY D'ADAM: Because you agree it is a demonstrated hazardous product?

Mr GLOVER: Yes, we would agree with that.

The Hon. ANTHONY D'ADAM: And you think the appropriate approach is to take the same approach that we do to asbestos, is that correct?

Mr SOLOMON: As a starting point.

Mr GLOVER: Well, as a starting point, perhaps, yes.

The Hon. ANTHONY D'ADAM: Because they are both hazardous products.

Mr SOLOMON: Yes. As opposed to a kneejerk reaction, which is what we are afraid of, is having a high level of control imposed right across the industry for the other products where it is not as densely populated with silica.

The Hon. ANTHONY D'ADAM: We recognise that there is legacy problem with asbestos but clearly once the manufactured stone is in place it is not comparable to asbestos, is it?

Mr GLOVER: Unless it is disturbed or cut, I suppose, once it is in place it is in place. I would say the same for asbestos. Again, it might deteriorate more quickly than stone over time perhaps but again asbestos is not dangerous if it is not disturbed. It is only when it is disturbed, it is cut, it is broken, it deteriorates—that is when fibres can then—

The Hon. ANTHONY D'ADAM: There is an ongoing risk with asbestos, is that right?

Mr SOLOMON: Given that a benchtop is a utility device that gets a fair bit of traffic, if it is a manufactured product and it needs repairing and ongoing maintenance you would be doing well to fix a chip or a hole in your own kitchens if there is a breakage. If you are doing a lot of repair without creating some sort of atmospheric dust, it is—

The Hon. ANTHONY D'ADAM: Your submission is that we agree that they are both hazardous products. Perhaps you can provide some comment on why we would not take the same approach that we have taken with asbestos which is an outright ban going forward.

Mr GLOVER: There are controls that we believe can be applied that mean working with stone is acceptably safe. There is a number of strategies that you can take. Obviously wearing appropriate PPE—personal protective equipment—for example, wet cutting of the stone. All of that keeps the fibres down or the silica dust controlled and mitigated. We do not believe a blanket ban is the way to go. That would be to some degree throwing the baby out with the bathwater.

The Hon. GREG DONNELLY: We have done that with asbestos.

Mr SOLOMON: If you banned manmade stone products that might have some impact but then are you going to ban naturally forming stone, marble, sandstone, because that has all got—

The Hon. ANTHONY D'ADAM: But I am not sure the evidence is there to say that that poses a similar risk to manufactured stone.

Mr SOLOMON: It is just a differently weighted percentage.

Mr GLOVER: That is right. So we are not suggesting a ban is at all necessary. We think with proper controls you can still safely use the product.

The Hon. ANTHONY D'ADAM: But there are alternatives to manufactured stone, aren't there?

Mr GLOVER: Of course, yes. Certainly.

The Hon. GREG DONNELLY: Following on from my colleague the Hon. Anthony D'Adam, Mr Glover, I am not trying to be clever about this but in answer to one of his questions about the comparison between asbestos and manufactured stone I thought I heard you say that in terms of the danger of this product that there was an understanding that it is dangerous and that is why we are talking about your recommendation 1. But then in a further answer the word "perhaps" was introduced: "Perhaps it is like asbestos," which, let me be frank, suggests a bit of wriggle room, if I am going to be in your face about it.

Mr GLOVER: Sure.

CORRECTED

The Hon. GREG DONNELLY: Are you looking for wriggle room here or is the Master Builders Association, which is a very significant organisation? And I am not reflecting but simply making a point, but it is a very modest submission in terms of its length and content on a very significant workplace occupational health and safety matter. The organisation surely is not seeking to introduce any wriggle room in here between the issue of asbestos and manufactured stone, are you?

Mr GLOVER: No. What we are saying is they are different products and in respect of stone we believe that it can still be utilised, it can still be cut, but there need to be proper control mechanisms in place to make it safe to do so, and we believe that is the case with stone. In a sense, that makes it different to asbestos.

The Hon. ANTHONY D'ADAM: How practical are those controls when you are installing?

Mr GLOVER: Again, it depends on the circumstance. If you have cut it made to measure off site and you take it to the site, all you are doing is installing it and you are not doing any cutting of the stone as part of the installation process.

The Hon. ANTHONY D'ADAM: Minor adjustments involve cutting and grinding on site, do they not?

Mr GLOVER: They certainly can.

The Hon. ANTHONY D'ADAM: How can you control for that?

The Hon. GREG DONNELLY: They do.

Mr GLOVER: They do, but not in every circumstance. Sometimes these things are made to measure off site and then they are simply installed with no need for amendments to be made. But when it has to happen on site, yes, there are controls that can be put in place to ensure that workers are safe.

The Hon. TREVOR KHAN: I was interested in the question of how much of it is done on site. I think of two circumstances. The first is kitchen renovations. I will make a declaration that I have had two bathrooms and a kitchen renovated in the last couple of years. The installers have come in and out well and truly within the day on each of those jobs. It seemed to me that there was not a lot of onsite cutting and grinding. There is that circumstance. The other circumstance is the high-rise apartment buildings that are shooting up all over the place here. Are you able to describe how those sorts of jobs are done and the amount of cutting that is involved on site for those jobs?

Mr SOLOMON: In a high-rise apartment environment, groups of trades normally go floor to floor in a sequence. If there was a deficiency identified where you needed to amend or fix the benchtop, for example, it would be quite easy to put in place a cutting room, which is a controlled environment and is contained. Technology has gone forward leaps and bounds. It is not just a paper mask. People can wear full respirators that cover their beards and their whole heads. There is also the introduction of wet cutting. Whilst wet cutting does not eliminate the risk, it does reduce it greatly. In an apartment environment, if there was a scenario where a defect was identified, rather than taking all those benchtops back to the factory, which you may do, you could quite easily—and this happened in the past in my former life as a site manager or foreman—allocate an empty apartment that has not been fitted out and use that as a cutting room.

It is a controlled environment and you can put negative air pressure in there to remove the air. There is technology available to do it. But more often than not, the benchtop for a kitchen is cut off site. It may be measured on site and sometimes the sink holes are cut on site. The small amount of cutting that is done on site these days is often for the tap, and more often than not that is done with a digital technology. In programs these days that is cut as well. You are right in saying that it does exist, but there is not a hell of a lot of it. It is the people who do not adhere to the controls that are available to them that bring us down. There might be an odd occasion where there is a plumage of air. That is dry cutting. But that is getting a lot of attention. You only have to mention the word asbestos on site and people have got to start reacting. It is a bit like the smelly paint in an office environment—people will go home with a migraine. There are controls in place. They are widely available. I think the limited exposure and the limited amount of cutting that does happen can be controlled quite easily.

The Hon. TREVOR KHAN: That brings me to the next area. It does not really matter if it is in the installation of a new kitchen or on a site. One of the complaints that we got on Monday was that whilst inspectors have started to make an intrusion into the workshop environment to ensure that there are better safety standards in those environments, there is no oversight of what is going on out in the kitchen or unit block. How does everyone ensure that appropriate safety standards are applied on those building sites?

Mr SOLOMON: That actually takes us to another one of our recommendations. There is a bit of an overlap. We are suggesting that people who are doing this kind of work should have some sort of management

system in place. While that may be the case, it may not be adhered to. That is why our suggestion, I think it is recommendation—

The Hon. TREVOR KHAN: Five is it?

Mr GLOVER: Yes.

Mr SOLOMON: Four and five. For New South Wales particularly, there are two sets of guidelines out there. Why would you not apply those to a contractor? So a principal contractor would say, okay if you are a kitchen benchtop company and you are going to be installing in 500 apartments, that is 500 benchtops, then there is the bathroom as well. Let us make it 1,000. You would want to see some safe system of work in place, which is a systematic approach to applying safety on site. If you had that, why would you not make it comply with the New South Wales Government guidelines? The second set—which is the fifth edition of safety guidelines for management systems—is contemporary, it is up to date. It is a very good benchmarking tool. It talks about outsourcing and procurement as well as the controls in place for whatever you do. Then the fifth recommendation was for the third edition environmental guidelines which is a bit of a package.

The Hon. TREVOR KHAN: Mr Solomon, can I tell you that I am on another inquiry—and the number of inquiries I am on is quite frightening—that is examining the outcome of such things as Mascot Towers. It seems that within the building industry there has been a complete breakdown of appropriate oversight of construction, particularly in the multistorey tower exercise. I am not saying where we are getting to but I have incredible concerns as to what has happened. If there has been that problem in terms of just the basic building and building of a plan, how can anyone be assured that your recommendations four and five do not end up as more than just a tick and flick?

Mr SOLOMON: The people we are suggesting in the submissions must be adequately qualified to review those documents. And then there is the ongoing monitoring of them. When we see any New South Wales work done for the Government in GC21, those two sets of guidelines are often in place as a requirement for the tenderer—for the contractor and the principal contractor. Depending on the project director, it is up to them whether they include onsite monitoring and auditing to say it is in place. This would be a preliminary position to say, at the tender stage, at least we have got a builder and a contractor, we have got a systematic approach to putting controls in place and applying them.

How well that is implemented, in response to your question, is then up to the Government to impose those controls. Through the schools projects, the schools infrastructure projects, we are seeing that more commonly now where every three months you have to have a third party audit. We are saying that those third party audits should be done by someone who is qualified as a certified lead auditor as opposed to, yesterday I was a labourer and today I am a safety guy. We would like to see a level of comfort that someone who is undertaking these audits and making sure that these systems are being implemented, on whatever frequency, are done by someone who is competent.

Mr GLOVER: Can I just say too. You have mentioned a couple of other projects which have had a fair bit of press lately. I do not think they were State Government projects. Therefore the sorts of management systems and the type of guidelines we are talking about here were perhaps not necessarily in place on those other projects.

The Hon. TREVOR KHAN: I think we can bet London to a brick on that.

The CHAIR: Following that and I better declare, that firstly, I am a lead auditor for Occupational Health and Safety [OHS] management systems, or I was. My Masters is in OHS. I started my career in a limestone mine and I was a WorkCover-accredited trainer and assessor. I do not disagree with what you are saying about your systematic approach. In theory, every activity out there happening on construction sites should be covered under a safe work method statement [SWMS]?

Mr SOLOMON: Yes.

The CHAIR: And a lot of the control measures should already be in place. So let us flick then to the awareness to be able to identify and have those. I do not have a problem with the multistorey issue. I think we are getting better with the cutting facility. Let's talk about the sole trader, the one or two apprentices—the majority of your members, I would imagine, throughout the State—awareness and then also resourcing from SafeWork NSW to be sending inspectors out. What are your comments on those areas? Awareness—does that come back to your recommendation 1, to say that to raise awareness you draw a link to asbestos?

Mr GLOVER: In part, yes. But I think there is a growing awareness in the industry around silica and silicosis. Again, it has had a fair bit of publicity. But I think there is more to do, certainly, in the educative area. The regulators and the industry associations have all got a part to help play to educate their members and, in the case of the regulator, the broader industry. You have then got the question of resourcing that I think you raised

CORRECTED

well. Whether SafeWork NSW is adequately resourced or not in this area is probably a little difficult for us to say. We have a fairly close relationship with SafeWork NSW in the sense that we attend a lot of meetings and committees and we try to work cooperatively with them, and we do.

The CHAIR: Surely, though, through your membership you would know if there were enough inspectors turning up on construction sites or not? You have been in the industry for a while; you can probably compare what it used to be to where it is now. Are we moving towards almost the third-party consultant or certifier, or are there enough inspectors turning up?

Mr SOLOMON: I think if we continue to work closely with them in partnership, we can cover it. There could always be more inspectors. I think it is 330 in the Sydney metro area, or in New South Wales.

The Hon. TREVOR KHAN: What do they inspect?

Mr SOLOMON: It depends on whether they are looking at—I mean, falls from heights is—

The Hon. TREVOR KHAN: No, my understanding is that a significant number of those inspectors are related to plumbing. Is that right?

Mr SOLOMON: I do not know if it is right; I have not heard it before. I have not heard that people are running around inspecting plumbing. SafeWork NSW are running around putting out fires inasmuch as they are addressing the top four harms that harm people, and that is falling from heights, being hit by mobile plant, objects falling off the sides of buildings, and electrocution. That is where their resources are allocated. While I know they have been to quite a few hundred factories and issued 118 notices for silica in factories, they do it in sweeps, to be honest, campaigns and sweeps. Scaffolding is a big issue. We have got an economic boon that I am sure we are all aware of and see it and live it every day, so they focus their attention and their resources to those that are greatest at risk, which is falls from heights and scaffolding—incomplete scaffolds at the moment. They are about to do a new wave of working at heights or falling from heights version 2.0—that is going to start in a month or so—and then just finish the scaffolding campaign. The silica awareness would need the same info and focus.

The CHAIR: Do you think they should do it?

Mr GLOVER: Yes.

Mr SOLOMON: Absolutely. If you take that awareness more broadly—they had the silica symposium. We were part of that; we supported that and we helped facilitate it. You just have to draw a line in the sand somewhere—pardon the pun—and start getting on board with it.

The CHAIR: The review that Safe Work Australia is doing in relation to the exposure standards—your view on that?

Mr GLOVER: I think that goes to our recommendation 2.

Mr SOLOMON: Keeping it in a summary form, in principle we support a task force. But we do not support a measurement that there is no technology to measure. It is simply not out there. There is a division of SafeWork NSW, the Centre for Work Health and Safety, that does research. I am a foundation member of that and I know they are looking at universities in England, I think, to get real-time measurement as opposed to air monitoring, which is after the event. At the moment, to my knowledge—we work closely with universities and a lot of people in that area as well—there is no technology that can measure 0.02 in the air. So I am not sure why we would impose—to that end, we do not support it.

The Hon. ANTHONY D'ADAM: Is it not the problem there that the accepted evidence is that the safe exposure standard is lower than that, and so what we are saying is that we should not have a standard as low as that because we cannot detect it even though we know that exposures at those higher levels are not safe?

Mr SOLOMON: I think we need to take into account that the technology and controls that have been put in place today are not taken into account in relation to the data we have got that is quite dated.

The Hon. GREG DONNELLY: What data is that?

Mr SOLOMON: The data that is saying that we should measure it as 0.02. We have not got any contemporary data because it has not been around that long. Stone bench tops have been around for a while but we do not have a body of knowledge on what the real data is.

The Hon. GREG DONNELLY: Sorry, I do not understand your answer.

Mr SOLOMON: We are adopting a legacy of asbestos-type data for silicosis which, as Mr Glover and I were saying before, is okay but you have to put stronger controls in place where there is a higher percentage in the air.

CORRECTED

The Hon. TREVOR KHAN: There has been a lot of evidence and a lot of talk about this level of exposure. Is the problem, from your perception, that the problem is happening at these levels of exposure that we are talking about here or is it really that up until this point, at least in some environments, there has really been no attempt at control at all? That the problem has been pretty "cowboy-ish".

Mr GLOVER: I think there are probably examples of that, yes, but I think there are also a lot of other examples of employers trying to take a responsible approach as well. So I guess you can point to both scenarios.

Mr SOLOMON: As early as this week we have heard positive feedback from some of our larger members where the awareness is already in place with silica. They are now putting fixings in the slab—the underside of slabs—so you do not have to put anchors in a slab afterwards, which is drilling in concrete and that creates dust. If you are drilling in concrete for the underside of a slab and it is wet, that is not great either. This awareness has already caught on. Some businesses are saying, "This has been great because now we are doing things differently. We do not do any drilling. We mark out the slab and put the fixings in place now and pour the concrete with them in." There is no drilling because, once you take the formwork away, there they are, ready to go. So there are positives as well. Yes, there will always be a percentage of cowboys. We do our best to increase the awareness through technology.

The CHAIR: So if you do not want the standard changed because we cannot measure it, do we leave it as is and just put control measures in to say zero exposure?

Mr SOLOMON: We leave it as is until we have up-to-date and quantifiable data that is reflective of today's environment and today's practices.

The CHAIR: And take a risk-based approach?

Mr SOLOMON: Exactly.

The CHAIR: How do you distinguish between the two activities on two different materials that may be of different risk?

Mr GLOVER: You have got to assess each one, I would imagine. You can have systems in place where you identify the different risks and what measures and controls you need to have in place to control those different risks.

The CHAIR: Does that then become your recommendation six—using Quick Response [QR] codes et cetera on all products to be able to get access to the data from them?

Mr SOLOMON: That was more in relation to the environmental disposal. That is sort of the back end. Let us say we have addressed the management of installing and maintaining silica products. At the end of that you are going to have dust or slurry that you have to get rid of. Recommendation six was simply saying there are systems in place—not dissimilar to asbestos—where they put QR tags on the vehicles and bag and tag the actual waste material and use GPS tracking. Obviously you get your tip receipts to say it has been disposed of thoughtfully. We were suggesting that you apply the same controls to silica.

The Hon. ANTHONY D'ADAM: I want to come back and clarify. Your earlier evidence was about the adequacy of the SafeWork NSW inspectorate. Your view is that that needs to be supplemented—that there needs to be additional resources allocated to SafeWork NSW for this specific hazard?

Mr GLOVER: Whether they are additional or whether they are existing that can be focused.

The Hon. ANTHONY D'ADAM: But you would not want to take resources away from the four primary hazards that your colleague identified?

Mr GLOVER: No, certainly not.

The Hon. ANTHONY D'ADAM: On that basis you would be supporting further resources—

Mr GLOVER: We support resources that focus on this. Whether they have to be additional or not is probably a matter for SafeWork, not for us.

The Hon. ANTHONY D'ADAM: I think you said there are always going to be cowboys in the industry. I wanted to come back to the question about controls, because you gave quite a good explanation around controls in apartment construction. But in home construction, where the industry is much less concentrated and you have a lot more players, how do we address this control issue in that context?

Mr GLOVER: I suppose in a single home or a single-storey home you are probably not going to have the same amount of material that you would in a high-rise apartment because—

CORRECTED

The Hon. ANTHONY D'ADAM: If you are an installer and you are doing one job, then the next and the next, you are still going to have a level of exposure that is going to be hazardous, are you not?

Mr SOLOMON: The same applies in the awareness. I recently renovated my house—

The Hon. TREVOR KHAN: Congratulations. Did it go well?

Mr SOLOMON: Thank you. I am paying it off still.

The Hon. TREVOR KHAN: So am I.

The Hon. GREG DONNELLY: Can you recommend a builder?

Mr GLOVER: Yes.

Mr SOLOMON: Funnily enough my wife found him. Everyone is busy. In all seriousness, for single dwellings it is the awareness that is going to eradicate the cowboy behaviour. More often we are seeing—you mention the word "asbestos", everyone clears off. You have to give notification to next door that you are going to be disturbing it for 24 hours or 48 hours notice. Workers on site will generally not work alongside someone else who is doing the wrong thing. If there is a kitchen installer putting a benchtop in and he or she is grinding away making this dust, people are just not going to stand there and get covered in it.

The Hon. ANTHONY D'ADAM: What is your evidence for that? How can you make that assertion?

Mr SOLOMON: I have been in the industry for 30 years. I have walked the decks for 20 years.

The Hon. ANTHONY D'ADAM: Is that just a general observation?

Mr SOLOMON: If you are walking down the street and there is dust, people do not stand there getting showered in dust. They do not like it. The way forward with single dwellings is through awareness, training, turning up and getting continuing professional development [CPD] points or just turning up to SafeWork NSW information sessions. It is coming on well. It is encouraging to see sole traders and small-to-medium enterprises having this awareness. We are inundated with phone calls, not about this but just about safety in general. Workers do not sit alongside other workers who are unsafe.

The CHAIR: Especially electricians, we will not put up with that.

The Hon. ANTHONY D'ADAM: This is potentially a lethal product that we are talking about and you are saying that in the hierarchy of controls we should basically rely on administrative controls?

Mr GLOVER: Not solely.

Mr SOLOMON: No, I did not say that.

The Hon. TREVOR KHAN: Do you think there should be a disclosure statement of some sort given to the home owner at the time of purchase of the product? When you talk about asbestos—

Mr SOLOMON: It is not dissimilar.

The Hon. TREVOR KHAN: —one of the controls essentially—

Mr SOLOMON: Education.

The Hon. TREVOR KHAN: —education. That is, if you get a builder in to take out asbestos cement everyone knows you are dealing with a dangerous product. I would have thought most members of the public who are getting a kitchen installed—I did not even think about it, even though I had been on the previous committee where we looked at this—would not necessarily think about the potential dangers of that product, not only for them but for the workers who are coming on site. Do you think it might be worthwhile in terms of the education being when you buy this product? "By the way, dust created by this product is a potential hazard". It is another layer of supervision of the workers.

Mr GLOVER: Yes, certainly. I think that it is all about information and education. I think that could only be a positive step certainly. It is not one we contemplated previously but it certainly bears considering.

Mr SOLOMON: There are other products that are not stone, I think from memory Trezzini Benchtops, and you cannot purchase or install that unless you have done a two-day course in the awareness of it. It is just another product and it is not great to breathe in. I am not a technician on it, I just used to be a cabinet-maker, that is all. I know there are other controls in place.

The CHAIR: We have had a system in New South Wales where particular hazardous processes were regulated through licensing or other training programs. Do you have thoughts on applying that to manufactured

CORRECTED

stone? You could not use an explosive tool without having a ticket, you could not go onto a construction site without doing your green card.

Mr GLOVER: True.

The CHAIR: You can get them online now for $18, but that is a whole other story—from another State.

The Hon. GREG DONNELLY: Which State?

The CHAIR: You can get them from anywhere now, it is deregulated—I used to make a fortune out of it. I will leave that alone. Should there be other things in the regulation of how people work with this product that we should consider?

Mr GLOVER: Certainly considered. I make the point again that at a macro or industry level, people in our industry are quite mobile and it is not unusual for them to travel from State to State to work. Whatever controls and licensing, or education or whatever it might be—and perhaps they all have different value levels—there needs to be a consistent approach. Too often in the safety space we experience differing levels of safety depending on which State or Territory you are working in. That makes less and less sense. It creates confusion and it creates additional cost here where the cost is not somewhere else and sometimes it gets overlooked because of lack of consistency. Whatever is in place, one of the guiding principles ought to be consistency.

The CHAIR: You represent a larger number of employers in the State?

Mr GLOVER: Yes.

The CHAIR: Everyone has to have workers compensation insurance. Is that potentially another way to raise awareness and attention of the responsibilities of an employer—through the workers compensation premium process? Where they may have to identify—and I am just fishing here—as maybe a condition? If we know that this is a workplace hazard of the future, if we know that we need to apply a hierarchy of control and we need everyone to have that, should your hierarchy of control or your safe system to work be submitted with your workers compensation, if you identified that is a process that your business does?

Mr GLOVER: We have to tread carefully because it is quite easy to just whack up premiums when it comes to workers compensation. In fact, you may well have quite an effective control measure or measures in place.

The CHAIR: That is where the premium discount scheme used to be a cracker for that—because if you did have the control mechanisms in place you were rewarded through a reduction in your workers compensation premium.

Mr GLOVER: Right, yes.

The CHAIR: That is old school, though.

Mr GLOVER: That's right.

The CHAIR: We are looking at what we do for the future in New South Wales. We are looking at ways to try to assist with not only the raising of awareness, but also the reduction of the exposure. From my understanding, the control measures are in place. I think you would agree with that?

Mr GLOVER: They are certainly available. They may not be in place in every case, but they certainly available.

The CHAIR: Good clarification—they are available. Whether they are practicable or not is an argument, whether they are affordable, but more importantly, whether they are applied.

Mr SOLOMON: That is right.

The CHAIR: We are looking at innovative, maybe outside-the-box ways to recommend—so that we do not end up losing people in their twenties for sucking in this stuff or exposing a young child in a residential setting because of a tradesperson doing the wrong thing.

Mr SOLOMON: It is a lack of awareness.

The CHAIR: I guess this is an open—do you have an outside-the-box ideas that could assist with that?

Mr GLOVER: Perhaps it may be something that we could take on notice and give further consideration to.

The CHAIR: Please.

CORRECTED

The Hon. TREVOR KHAN: Can I just make the observation that there will be people on the Committee who will be pushing that the recommendation be a ban on manufactured stone. If that is not to be the Committee's recommendation, there has to be a compelling alternative case that at least the majority of the Committee is prepared to accept.

Mr GLOVER: Yes. I understand. We certainly do not support a complete ban on it, because—

The Hon. TREVOR KHAN: Probably nor do I.

Mr GLOVER: Only because we believe it can be managed safely in the right environment and with the right control measures. They are available. As we pointed out, air monitoring and that sort of thing I think in time will improve. We should not be setting levels that the technology is not there to measure. But where we are at, at the moment, is we think it can be effectively managed with a range of strategies. Banning it, as I said earlier, is like throwing the baby out with the bathwater.

The CHAIR: I am going to throw to the Deputy Chair. Just quickly though—and maybe take this on notice as well: Dust is not dust, right? There are different dusts. However, breathing in a manufactured timber product that has been cut is also hazardous. There is a whole range of things. The other thing—maybe take it on notice and think about it—is that today we are talking about silicosis and the exposure to things like manufactured stone. However, is the issue of dust management and the prevention of inhaling dusts more broadly something that is probably still if not overlooked then not given the same attention in the workplace, unless it has an asbestos tick?

Mr SOLOMON: I think in the last 12 months it has got a hell of a lot of attention. I think it is filtering down well on a site. The product you spoke of before—medium density fibreboard that contains formaldehyde—that only took a short amount of time before there were designated cutting rooms on-site. People would put pieces of ply together, put a door on it and you have to cut it there with the right respiratory controls in place. No-one ever really hears or speaks about it anymore. I think the awareness is the key and having some reasonable controls that are actually practically able to be implemented, rather than just setting the bar so high that, "Oh well, there is a stone bench top going to be installed so everyone has to wear a mask now".

The Hon. GREG DONNELLY: Earlier in my first round of questioning I made a comment about the submission. You probably saw that as perhaps a reflection on the submission, in terms of my comments about its size. The reason I did so is because of the significance of the Master Builders Association—not just in this State but in Australia—in the building and construction industry. It is such a significant organisation. It operates at that genuinely macro level and once it makes a decision to do so on a matter it has the will and the resources—and dare I use the word "grunt"—to make things happen. That is what you are capable of doing and we know you do that and have done that in a number of areas of important priority for the organisation in the past. That brings me to this question about the issue that we are specifically looking out in this inquiry, which is manufactured stone. This is not a trick question and if you say "haven't done it", just please say so and I will put some questions on notice. Have you had the opportunity to read other submissions made to this inquiry, particularly from the health and medical professionals who specifically deal with the matter of dust diseases?

Mr GLOVER: I have not had that opportunity personally, no.

The Hon. GREG DONNELLY: No, that is okay. It is not a trick question. Did the person who prepared this submission have the opportunity to look at those submissions from those health and medical experts who specifically deal with the matter of dust diseases, specifically in manufactured stone?

Mr GLOVER: No. This submission was repaired just through consultation with our members specifically in that area and a number of industry forums that Master Builders is involved in.

The Hon. GREG DONNELLY: Okay. Once again, this is not a trick question: Did you have a chance to read the evidence from the health and medical professionals who gave evidence to this inquiry earlier this week on Monday, the *Hansard* from that day's hearing and what they had to say?

Mr GLOVER: Regrettably not.

The Hon. GREG DONNELLY: No, okay. You do not have to apologise. I just want to get—because this gets me to this particular point, which I think is quite critical. You may or may not be aware of this—once again, if you are not aware of this please say so. The people in the health and medical profession at the most elite level we have in this country dealing with dust diseases and with quite some specificity of this issue of manufactured dust disease, if we use that title, were speaking in very strong terms about the significance of what is before us right now, not in the future but right now, with respect to this disease. They were using very clear and unambiguous terms of it being seen and ought to be seen in the dimensions of the asbestos health challenge that we have all been through in this country, specifically in New South Wales. New South Wales is significant because

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it is a third of the Commonwealth. It puzzled me that with all of the knowledge that is there, it is in the public domain and has been there for some time, there does not appear to be a sense of urgency through your suite of recommendations to confront it, and if you have a different view tell me. It is in our face right now, and the bells are ringing very loudly.

Mr GLOVER: I think we have tried to point to a number of initiatives, which we think can be put in place reasonably quickly, in our submission. In terms of the medical evidence you say you have heard, which I have not read, but I am assuming it might go to issues around people who are currently suffering from silicosis, which would indicate that they have probably contracted that in the past at some point and are now suffering from it. What we say is you cannot get in a time machine and go back and fix that. As you say, what can we do from today going forward? We have tried to indicate that we think there are a number of strategies, a number of initiatives around education, around personal protective equipment [PPE], around a whole range of strategies that you can implement quite quickly and quite easily in the workplace to prevent, going forward, the sort of experiences that people have had in the past with this. That is about all I can say.

The Hon. ANTHONY D'ADAM: You have placed a lot of store on awareness and one of the concerns that has been raised in evidence from other witnesses is the issue about how do we find the installers. It seems to be much harder to identify where people are at risk, primarily on the installation side. I wonder whether you have anything to say about what kind of strategies or approaches might be taken to identifying how we might find these people, how we might identify those workers at risk? One thing that has come out of the previous inquiry is the recommendation about case finding, that there are real difficulties in terms of locating and identifying.

Mr GLOVER: There is perhaps a bit of a mixture out there in the industry of companies who have a factory or workshop setup where the stone might be cut and is ordered from a builder, let us say, to go into a house or unit, or whatever the case might be. In some cases those businesses will cut the stone in the factory and deliver and install on site. In other cases they might cut it and subcontract out the installation to somebody else.

The Hon. ANTHONY D'ADAM: Would it be fair to say that is the more likely model that applies in the industry, that the installers tend to be subcontractors?

Mr GLOVER: I would hate to put a percentage on it. It is difficult to say. It would be safe to say that both scenarios would be happening to whatever percentage. Perhaps the people you might be talking about are not so much the employees of the supplier of the stone but more the subcontractors, if they are subcontractors, doing the installation. We would say that from a controlling safety onsite perspective there is an ability to manage that. In the matter of who it is coming to a site if that work is being done onsite, the cutting of stone, then that is up to the builder. It is up to the safety people who are onsite to ensure that the correct controls are in place if that cutting has to be done. It does not really matter by whom. If that approach is focused on and the controls, the management systems and the support onsite, is there to ensure it is done safely, it really does not matter whether they are a subcontractor or an employee of a supplier.

Mr GLOVER: If you are trying to hone in on identifying where this work is taking place at the mum and dad level, the small-to-medium enterprise, could you not make it a requisite for local councils for development applications to tick a box and say, "We are installing it?" If you found them installing it, then you could identify it through councils, through Das—even through fitouts in the city. A lot of the stuff goes in the high-rises in office spaces, a lot of kitchens.

The CHAIR: As part of your construction certificate or your DA process, do you identify what product you are using in relation to that or just that you are using manufactured products?

Mr SOLOMON: You have to identify if you are doing a structural alteration because they want to know the footprint of the building. There is also safety involved because you are taking walls down and demolishing.

The Hon. TREVOR KHAN: But you would not need to do that in a kitchen rebuilt, would you?

Mr SOLOMON: We are saying you could.

The Hon. TREVOR KHAN: Really?

Mr SOLOMON: I am saying you could make it a requirement to identify it. Then you could locate where the works are going on.

The CHAIR: Unless it is exempt. Renovation, same footprint, may be exempt.

Mr GLOVER: Yes. It might not capture everything.

The Hon. TREVOR KHAN: It is presently.

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Mr SOLOMON: You would capture some. Some is better than nothing. You would get an idea of the footprint. That would not encroach on a builder the cost to do the job; it is another element to notify. They have to go through council anyway for those requirements. That could be a standalone requirement, a separate line item on a development application.

The CHAIR: Have you seen any evidence of this having an impact on workers compensation premiums throughout your industry? You can take it on notice, if you like.

Mr GLOVER: No, I have not. I am happy to take it on notice. It may well be but not significant. No, I have not seen anything significant.

The CHAIR: The more claims we get I am sure you will start to see—

Mr GLOVER: Perhaps in time.

The CHAIR: With awareness may come more traffic court lawyers that move into workers compensation.

The Hon. ANTHONY D'ADAM: The CFMEU in their submission raised the issue about notification of dust exposure and the limitations of the current framework around that. Do you have any comments about that? People are being exposed to hazardous dusts and it does not seem to be an adequate framework for that kind of notification to occur.

Mr SOLOMON: The question is: How much dust? Is it any dust? Is it no dust? That is quite an abrupt approach to say, "If you have any dust you have to register it". I think that will create underreporting—no dust here! Nothing to see here. I think we need to focus on the controls in place first and that is further down the track.

The Hon. ANTHONY D'ADAM: Presumably it is safe to say, given the rising incidence of silicosis in this industry, that there has not been proper notification of exposure. That is something we need to remedy, surely.

Mr SOLOMON: The exposure has been to young people who did not know what they were breathing in. In the last year to 18 months the awareness has been greatly received. Everyone has taken notice very much.

The Hon. ANTHONY D'ADAM: This goes to the employer's obligation, does it not?

Mr SOLOMON: Yes, and also the workers. Everyone has got a legal responsibility for their own safety. I think the awareness is the key.

The Hon. ANTHONY D'ADAM: But the primary responsibility still sits with the person conducting a business or undertaking [PCBU], does it not?

Mr SOLOMON: Under the Act it is the responsibility of the individual worker. They have got to be aware as well. Under the Work Health and Safety Act they have got a responsibility to themselves to not create any other risks around anyone else. I am not singling out the employer or the worker. I am saying more broadly.

The CHAIR: Are you comfortable in saying that this is a legacy issue to a degree and you believe that particularly over the last 12 to 18 months there has been a change in attitude and change in practice within the industry that what we are dealing with now are, as I said, legacy and historical exposures, and that going forward because of the fact that we are even talking about this now, we would likely see fewer cases because of the practices that are being put in place?

Mr SOLOMON: We are seeing positive change, we are seeing increased awareness and better attitudes and trends.

The Hon. GREG DONNELLY: Where is the evidence of that? You are making the statement but where is the evidence?

Mr SOLOMON: We sit on a dozen or so committees which cover the housing industry, the larger tiered builders and asbestos committees. We sit on quite a few industry committees and they are all telling us. We had a committee meeting only Wednesday and it was quite unexpected. One builder said it has been a revelation. We are just doing things differently now. At first everyone was scared, and they are not sweeping up dust on sites anymore; they are vacuuming or they are hosing them, so their attitudes are changing. We are getting feedback from our members across-the-board that is working hand in hand, employer and workers on site. They are going, "Well, we can do it better". No-one wants to do it worse. No-one is out there wanting to make it worse.

The Hon. GREG DONNELLY: No, that is not a suggestion.

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Mr SOLOMON: Initially, everyone was quite aghast, "Oh, this is going to cost us more and it is not such a big problem" but now it has taken a bit of a turn, from what we are hearing. I am talking about mums and dads right through to top tier one and tier two builders. They have taken a different attitude.

Mr GLOVER: And that is not to say that there may not still be people coming forward who have contracted silicosis but the exposures already occurred before the awareness and the change-of-approach strategies had been put in place.

The CHAIR: We have run out of time. You have taken a couple of questions on notice. The secretariat will facilitate responses from you within 21 days. There may be other questions that members might send as supplementary questions as well. I thank you for your submission, understanding that it was a top-line, consultative submission. That is why we also appreciate the fact that you have come along today so we can drill down a little bit further and get anecdotal evidence from what you are seeing within the industry. It has been a long time since I have had my hands dirty. That is why we like to get evidence like that, so thank you for your time.

Mr SOLOMON: Thank you, Chair, and thank you, Committee.

Mr GLOVER: Thank you.

(The witnesses withdrew.)

(Luncheon adjournment)

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JOHN NAGLE, Chief Executive Officer and Managing Director, icare, sworn and examined

NICK ALLSOP, Group Executive, Care and Community, icare, affirmed and examined

CHRIS COLQUHOUN, Chief Medical Officer, icare, affirmed and examined

CARMEL DONNELLY, Chief Executive, State Insurance Regulatory Authority, affirmed and examined

DARREN PARKER, Executive Director, State Insurance Regulatory Authority, sworn and examined

PETRINA CASEY, Director Health Strategy, State Insurance Regulatory Authority, affirmed and examined

The CHAIR: I thank the witnesses attending our session this afternoon. Would anyone like to give an opening statement?

Mr NAGLE: Just a brief statement if I can, Chair.

The CHAIR: Sure.

Mr NAGLE: Thank you. Since we last appeared in front of the Committee icare has continued to enhance its services to support workers with dust diseases and their families and to try to improve their wellbeing and quality of life. But we also recognise that workers' needs change over time and we are ensuring that the appropriate services are provided at the right time. We are very conscious of the silicosis questions at the moment and so we are adapting our services and our provision of responses under the legislation to that growing need. In terms of what we have been focused on it is primarily reducing time frames for claims lodgement through things like our new portal and ensuring that there is more choice and convenience for workers accessing medical screening services to facilitate quicker diagnoses.

The CHAIR: Thank you. Would anyone else like to make an opening statement?

Ms DONNELLY: I wanted to say a few words if I could. Thank you for the opportunity to appear. As the Committee might be aware, SIRA's role as a regulator in the Dust Diseases Scheme is much narrower than it is in some of the other schemes but our work and consciousness of the importance of silicosis, our work has been more around our broader role in generally promoting good health and safety outcomes and efficiency and viability of the schemes where we have a role. I want to say in addition to the submission that we have put in and our prehearing questions I have made arrangements that if the Committee would like me to take questions on notice for SafeWork NSW or Safe Work Australia I can do that. I cannot speak for them but I am happy to take questions on notice.

The CHAIR: Okay. Thank you. Does anyone else want to kick off? We will open up for questions from the Committee members. Thanks for appearing and for your submissions and also thank you for the response to those questions that had been submitted by the Committee prior. Would anyone like to kick off?

The Hon. ANTHONY D'ADAM: Sure. I want to start off with the Government's response to the 2018 review. It seems to imply that the position of icare is that it is already conducting a case-finding activity. Would someone like to offer some comment around that?

Dr ALLSOP: Absolutely. Are you talking in particular for silicosis here?

The Hon. ANTHONY D'ADAM: For silicosis—yes, of course.

Dr ALLSOP: We have been screening for silicosis for 20 years. That process has been reasonably intensive in terms of the method by which we screen involves an X-ray, a lung function test and then review of all that information including a report by a qualified radiologist with experience in dust diseases.

Mr NAGLE: We have recently gone back to look at some of the earlier data from when we started screening about 15 years ago. It was a similar level of detection of about 25 to 30 people. Over the last 10 years that has settled down to about nine people every year. Now, as we have reinvigorated the screening, that detection level has gone back up.

Mr DAVID SHOEBRIDGE: We heard some evidence from the Lung Foundation Australia and Thoracic Society of Australian and New Zealand that the screening being done with the Lung Bus, which is X-ray screening, misses 40 per cent of silicosis cases. We tested them on that a couple of times and there were unambiguous that X-ray screening is missing 40 per cent of silicosis cases. Is that your understanding?

Dr ALLSOP: I have certainly heard that number. I have not been provided with any evidence to support that figure and we would certainly question the validity of it. We do not believe that we are missing that number of cases. As I said, the screening process is very detailed. We have three sets of eyes going over everything. If

there is even a trance of an anomaly the person goes for CT scanning. I am reasonably confident that we are not missing anywhere near that number of cases.

Mr DAVID SHOEBRIDGE: They were quite clear that using X-rays as a diagnostic tool was the problem and that as a diagnostic tool it is going to miss 40 per cent of silicosis cases. It was not just a person off the street telling us that; it was one of the most highly regarded thoracic surgeons—this is her speciality—telling us that. Can you come back to us on notice on whether you have got some evidence that would contest that?

Dr ALLSOP: We can take that on notice.

Mr DAVID SHOEBRIDGE: Secondly, they made it very clear that the solution to getting rid of that problem is, in large part, to immediately invest in CT scanning equipment that is low-dose but high-resolution. I have got to say that when I heard that we are missing 40 per cent of cases—which is the best evidence we have to date—I could not understand why we have not already done that.

The Hon. GREG DONNELLY: Is that equipment capable of being incorporated into a mobile unit?

Mr DAVID SHOEBRIDGE: Yes. They were clear about that. They said we could stick it on the Lung Bus tomorrow.

Dr COLQUHOUN: I will start with the chest X-ray sensitivity question. There are varying levels of literature out there that state various rates of sensitivity for X-rays to detect pneumoconiosis or dust-related diseases. We do know that internationally the X-ray is the primary benchmark used across all jurisdictions and countries. Having said that, we do know that CT scans are improving. We do know that, as with any healthcare technology, as we progress into the future things will get quicker, cheaper and lower risk. From a CT scanning point of view, if the relevant workplace health and safety regulator, the Royal Australasian College of Physicians and/or the other peak bodies were to endorse that then we would without a doubt be able to implement it.

Mr DAVID SHOEBRIDGE: This was from the Lung Foundation Australia and Thoracic Society of Australian and New Zealand.

Dr COLQUHOUN: Correct, yes.

Mr DAVID SHOEBRIDGE: They are the lung health specialists and they are saying that. If they are saying that, why are we not doing it?

Dr COLQUHOUN: The main question that would come to mind is whether it is a screening test or a diagnostic test. As Dr Allsop said earlier, we do not just rely on the chest X-ray to screen workers. It is an overall risk assessment that takes in their occupational exposure history, their clinical history, the clinical examination, the spirometer results and the X-ray.

Mr DAVID SHOEBRIDGE: But we have heard in previous inquiries that the spirometer is a very inadequate way of doing it. We have now heard very clearly that X-rays are inadequate. Indeed, when we the lawyers came in they were very clear. They said that if you want to prove this thing in court the first thing you do is get a CT scan. You do not rely on the chest X-ray. Everybody but you is saying we should be having CT scans. How is it that everybody but you is saying that?

Dr COLQUHOUN: From a screening point of view, a risk assessment always needs to be undertaken. Let me give examples from both ends of the spectrum. First, we have got a 16 year old who is commencing an apprenticeship as a stone mason. He is day one on the job. That risk is relatively low. On the other end of the spectrum, we have a worker who has been working in high-risk areas for a number of decades, perhaps with no protective equipment on. That risk is very high. Would we CT the apprentice? It is unlikely. Would you have a high level of suspicion to CT the other worker? The answer is yes.

Mr DAVID SHOEBRIDGE: But you are not CT scanning anybody at the moment.

Dr ALLSOP: We are.

Mr DAVID SHOEBRIDGE: The Lung Bus does not have a CT scan on it.

Dr ALLSOP: No, but that it the first point of call. Should anomalies be detected through the rest of the screening process, a CT scan is absolutely recommended.

Mr DAVID SHOEBRIDGE: We are told that it is missing 40 per cent of cases. That is the disjunct here.

Mr NAGLE: If I may, we have recently gone back and looked at some of the earlier data from when we started screening about 15 years ago. It was about a similar level of detection—so 25 to 30 people. Then over

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the last 10 years that has settled down to about nine people every year. Now as we have reinvigorated the screening that detection level has gone back up.

Mr DAVID SHOEBRIDGE: We heard some evidence from the Lung Foundation and The Thoracic Society that the screening being done with the lung bus—which is X-ray screening—is going to miss 40 per cent of silicosis cases. We tested them on that a couple of times and they were unambiguous that X-ray screening is missing 40 per cent of silicosis cases. Is that your understanding?

Dr ALLSOP: I have certainly heard that number. I have not been provided with any evidence to support that figure and we would certainly question the validity of it. We do not believe we are missing that number of cases. The screening process is very detailed. We have three sets of eyes going over anything and if there is even a trace of an anomaly it goes for CT scanning. I am reasonably confident that we are not missing anywhere near that number of cases.

Mr DAVID SHOEBRIDGE: They were quite clear that using X-rays as a diagnostic tool was the problem and that as a diagnostic tool it is going to miss 40 per cent of silicosis cases. That was not just a person off the street saying it. That was one of the most highly regarded thoracic surgeons—this is her speciality—telling us that. Given that, can you come back to us on notice if you have got some evidence that would contest that?

Dr ALLSOP: Yes we can take that on notice.

Mr DAVID SHOEBRIDGE: Or agree with it. And secondly, they made it very clear that the solution to getting rid of that problem, in large part, is to immediately invest in CT scanning equipment which is low dose but high-resolution CT scanning. When I heard that we are missing 40 per cent of cases, which is the best evidence we have to date, I cannot understand how we have not already done that.

The Hon. GREG DONNELLY: Which is capable of being incorporated into a mobile unit?

Mr DAVID SHOEBRIDGE: Yes. They were clear about that too. They said you could stick it on the lung bus tomorrow.

Dr COLQUHOUN: I might just start with the chest X-ray sensitivity question. There is varying levels of literature out there stating varying rates of sensitivity for X-rays to detect pneumoconiosis or dust-related diseases. We do know internationally it still is the primary benchmark used across all jurisdictions and countries. Having said that, we do know that CT scans are improving. We know that with any healthcare technology, as we progress in the future, things will get quicker, cheaper and lower risk. From a CT scanning point of view, if the relevant Workplace Health and Safety regulator and or the Royal Australasian College of Physicians and the other peak bodies were to endorse that then we would, without a doubt, be able to implement it.

Mr DAVID SHOEBRIDGE: Well this was from the Thoracic Society of Australia and New Zealand.

Dr COLQUHOUN: Correct.

Mr DAVID SHOEBRIDGE: They are the lung health specialists. They are saying that. If they are saying it, why are we not doing it?

Dr COLQUHOUN: The main question that would come to mind is screening test versus diagnostic test. As Dr Allsop said earlier, we do not just rely on the chest X-ray to screen workers. It is an overall risk assessment which takes in the occupational exposure history, the clinical history, the clinical examination, the spirometer results and the X-ray.

Mr DAVID SHOEBRIDGE: But we have heard in previous inquiries that spirometer results are a very inadequate way of doing it. We have now heard very clearly that X-rays are inadequate. Indeed when we had the lawyers, they were very clear. They said if you want to prove this thing in court, the first thing you do is you get a CT scan. You do not rely upon the chest X-ray. Everybody but you is saying that we should be having CT scans. How is it that it is everybody but you?

Dr COLQUHOUN: Perhaps I could say from a screening point of view, a risk assessment always needs to be undertaken. Let me give examples from both ends of the spectrum. We have got a 16-year-old who is commencing in an apprenticeship as a stonemason. He is day one on the job—so risk relatively low. On the other end of the spectrum we have a worker who has been working in high-risk areas for a number of decades with perhaps no protective equipment on—risk is very high. Would we CT the apprentice? Unlikely. Do we have a higher level of suspicion to CT the other worker? The answer is yes.

Mr DAVID SHOEBRIDGE: But you are not CT scanning anybody at the moment.

Dr ALLSOP: No, we are.

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Dr COLQUHOUN: We are.

Mr DAVID SHOEBRIDGE: The Lung Bus has not got a CT on it.

Dr ALLSOP: No, but that is the first point of call. Should anomalies be detected through the rest of the screening process then a CT scan is absolutely recommended.

Mr DAVID SHOEBRIDGE: But we are told it is missing 40 per cent of cases. You see that is the disjunct here.

Dr ALLSOP: There is limited substantiation that we are aware of to support that figure.

Mr DAVID SHOEBRIDGE: What proportion of cases do you think the X-ray misses?

Dr ALLSOP: The entire screening process?

Mr DAVID SHOEBRIDGE: Obviously you are investing in AI and doing all this because you know you are missing things. What proportion do you think you are missing now?

Dr ALLSOP: I could not comment on that directly, but there is no reason to believe that across the entire screening process the number we would be missing would be anywhere near that level. In particular, take the case of the individual that the Committee met in doing the tour of the clinic. He had been through the X-ray process. Some suspicion had been aroused through that X-ray process. He was sent off for CT scanning and came back clear, so he has no trace of silicosis.

Mr DAVID SHOEBRIDGE: I am very glad to hear that in that individual case. But it is the people who are not being brought in, the ones who are being missed—you cannot really have data on that, can you? But we have experts saying the current process is missing them.

Mr NAGLE: I think, Mr Shoebridge, our evidence is that there is no evidence in New South Wales that there is a 40 per cent error rate. It is a negative to prove, though, unfortunately. I think our second answer is that there is no combined call from any of the royal colleges around changing the procedure. But as I think we have said in previous years, we are happy to look at that if there is a case to be made. We continue to talk to the thoracic surgeons. We continue to talk to the royal colleges. As Dr Colquhoun said, as the cost comes down we are more than happy to invest in that mobile area as well. But at the moment, the screening process we have run for 20-odd years is not giving us any indication that we have a sizeable gap.

The CHAIR: Can I jump in on this? The CT is better than an X-ray—yes or no?

Dr COLQUHOUN: Correct, yes.

Dr ALLSOP: It is high resolution but it also exposes the person being screened to doses of radiation.

The CHAIR: Is the only reason that the CT is not in the bus now a cost issue or are their risks with CT scanning everyone as a first point of call? Given that that this is risk-based, exposure levels, use the X-ray, et cetera, there is also a cost associated with potential delay or misdiagnosis. So we weigh up financial costs versus risk to individuals either through going through the CT or not going through the CT if something is missed. Explain to us at what cost-benefit ratio does it get to where we can say, "Yes, we can now put it in the bus."

Mr NAGLE: There is no cost-benefit. If CT is the best way, we would happily embrace it and if we can get it into the lung bus. We will happily embrace that.

The CHAIR: Have you done that comparison to say whether—

Mr NAGLE: Not yet because there has been no evidence from any of the peak bodies to say that that is what we should do.

The CHAIR: The beauty of this inquiry is we are getting peak bodies—employers, industry groups, the medical fraternity, insurers—and we are going to collate it all together. That is the beauty of this. Always through this process we are looking for recommendations. There is a good opportunity for us to even make recommendations to governments. I have sat on the Expenditure Review Committee; I know how Treasurers think. Sometimes we can utilise these processes to say, "Hey, there may be an opportunity to look at the types of resources that are applied through these things." If we go through this process and we have a body of evidence from the medical fraternity and we look at this issue, would that be something that you would look at and do that cost-benefit analysis—cost not in dollars but across the board—as a result?

Mr NAGLE: Absolutely.

Mr DAVID SHOEBRIDGE: We are talking low-dose, high-resolution CT, and that technology has been around since at least the 1990s.

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Dr ALLSOP: It has not been portable. When we built the lung bus, I do not think we had the capacity from a technology perspective to put that sort of imaging within a portable vehicle.

Mr DAVID SHOEBRIDGE: There is no question it is portable now though.

Dr ALLSOP: Yes. Well, from what you have said, yes.

Mr DAVID SHOEBRIDGE: That is what we are told: There is no question it is portable now. I am sure I could do a Google search for "truck-ready low-dose high-resolution CT" and find some.

The Hon. ROD ROBERTS: So we can get this perfectly clear, in a perfect world where we had a choice—I will choose you, Mr Nagle, for no particular reason other than that you are first in line there—and it was you who had the potential to suffer silicosis and you were given the option of having a chest X-ray or a CT scan, what would you take?

Mr NAGLE: As an individual you would probably want to go for the CT scan.

The Hon. ROD ROBERTS: Why is that?

Mr NAGLE: Because everyone tells you that is the best. But what we are saying is that there is no body of evidence. There is one medical group that is calling it out.

The Hon. ROD ROBERTS: But certainly you have said that you would use it yourself.

Mr NAGLE: Absolutely.

Mr DAVID SHOEBRIDGE: Does that not answer it?

The Hon. ROD ROBERTS: It is not to cross-examine you; it is just to get to the bottom of this. Have all of you had the opportunity to have a look at the submission to this inquiry from the Royal Australian College of Physicians?

Mr NAGLE: I have not had the opportunity.

The Hon. ROD ROBERTS: I implore you to have a look at it because on page 4 of their submission—and if I may just quote, seeing you do not have it, so you will see where we are coming from and the evidence we have been provided with:

> 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.

So we have been provided with evidence here that says that chest X-rays are not the best option. As the Chair alluded to, if CT scans are the best—and we have been told that they are now portable—is it simply a matter of money why we cannot have them on the lung bus to start with? Where should we go?

Mr NAGLE: It has never been a question of money. The scheme is not constrained in that area. It has always been a question of whether there has been enough medical support to make the move. Prior to that description, we have not had any of the peak bodies coming to us with that kind of evidence.

The CHAIR: Is it their job, though, to come to you? Do you not constantly look at your methods and keep yourselves updated with the latest technologies and also consensus of opinion?

Dr ALLSOP: Absolutely. We are always looking at the medical evidence as it emerges. Our doctors on the medical assessment panel are all members of The Thoracic Society of Australia and New Zealand. They do not necessarily regard the use of CT screening as the best first approach in ascertaining exposure.

Mr DAVID SHOEBRIDGE: Maybe we should pull together a roundtable so that we can have the four regulators and these peak bodies around the same table sometime in the next few months so we can thrash it out in that forum. Maybe that would be useful.

The CHAIR: That is a question to us, and not to Dr Allsop, is it not? He cannot answer about what we are going to do.

Mr DAVID SHOEBRIDGE: I am just—

The CHAIR: You are making a statement or you are talking to us.

Mr DAVID SHOEBRIDGE: I am asking the witnesses whether they think a roundtable may be of use.

CORRECTED

Dr ALLSOP: Gathering further evidence in this area would certainly be of use. We, ourselves, through the Dust Diseases Board, are funding a wealth of research into the detection, prevention and treatment of silicosis. We have set aside $250,000 of our $1.5 million grants budget for the year to focus specifically on silicosis. That is not to say the rest of the $1.5 million will not be spent, in part, on that as well. So we are investing heavily in the research to determine both the most effective prevention treatment and screening methodologies.

Mr DAVID SHOEBRIDGE: Surely this was part of the task force that was pulled together? I know you were not leading that; SafeWork NSW was leading that. Surely questions about best practice for diagnosis was part of the task force agenda. Was it? Who was on the task force? Was that part of what the task force was doing?

Dr ALLSOP: I believe it was one of the things they were looking at.

Mr DAVID SHOEBRIDGE: I have looked at the task force's report. I have not seen any clear signal from it on this. What was the consensus on the task force about this?

Dr ALLSOP: I could not comment on that directly. I would have to take that on notice.

The Hon. GREG DONNELLY: Your evidence is that you cannot comment, you do not know. The task force was looking at this. You have got your position in your organisation. You do not know? Is that your evidence—that you do not know and you will have to check?

Dr ALLSOP: I do not know what the task force finding was in this particular area; not off the top of my head. I am sure we have access to it.

The Hon. GREG DONNELLY: Fair enough.

The Hon. ANTHONY D'ADAM: Who represented icare on the task force?

Dr ALLSOP: I would have to come back to you on notice on that one. We had members of the Dust Diseases Care team on there. I could not recall the names off the top of my head.

The Hon. ANTHONY D'ADAM: But you were not directly involved?

Dr ALLSOP: No.

Mr DAVID SHOEBRIDGE: On notice, can you give us your views on the recommendations from the task force?

Dr ALLSOP: On notice, yes.

The Hon. ANTHONY D'ADAM: Mr Nagle, you dispute the 40 per cent false positive figure, is that correct?

Mr NAGLE: What I am saying is we have never been presented any evidence to that.

The Hon. ANTHONY D'ADAM: What do you say the false positive is?

Mr NAGLE: I do not know. I cannot prove a negative in that sense.

The Hon. ANTHONY D'ADAM: You must have some idea of the number of cases that you might be missing with the current screening process, surely?

Dr ALLSOP: Our impression is that it is very low. I cannot give you an exact number. But to support that assertion is the fact that we are not seeing people coming back with silicosis—having been screened in the past and suddenly re-emerging, having been out of the industry for a number of years and things like that.

The Hon. ANTHONY D'ADAM: For example, when we did our inspection in Pitt Street I think there was a suggestion that of the 40 this year, 18 had come through referrals other than through the icare screening process. Had any of those people actually been screened by icare before that?

Dr ALLSOP: Not if they come directly via a referral, no.

The Hon. ANTHONY D'ADAM: My supposition is that they might have been screened, they did not get picked up and then subsequently they have been referred through by someone else. There has been a development of further symptoms that has warranted further screening independent of icare and then they have come back. Is that the case for anyone that you have encountered?

Dr ALLSOP: I would have to double-check. I do not believe so. But if they had been screened by us before then we would have those records and we could check.

The Hon. ANTHONY D'ADAM: You can take that on notice.

CORRECTED

Dr ALLSOP: Yes, I can take that on notice.

The CHAIR: Because that is the sort of statistic you would look at to say, "Well, if someone is presenting later who may have been screened earlier, it gets closer to that number that maybe you are missing".

Dr ALLSOP: I am not hearing about that, so that is what leads to the assertion that we are not seeing that level missed.

Mr DAVID SHOEBRIDGE: But we do not have a single register of results, do we? Because Victoria is going through the process now of establishing a statewide register of workers' questionnaires, barometry, X-ray and other results. Having a statewide register which can then be referred to when a worker comes back to any screening at a later point, we do not have that in New South Wales, do we?

Dr ALLSOP: No, we do not.

Mr DAVID SHOEBRIDGE: Do you support the establishment of one in New South Wales? Because we have evidence that suggests that that is crucial to pick up the subtle changes, that kind of statewide, comprehensive database and register.

Dr ALLSOP: What we do have is a comprehensive database of anybody who has been screened or referred to the Dust Diseases Scheme for screening. Where we have people coming back for second and subsequent screenings, we have that history there.

Mr DAVID SHOEBRIDGE: But that is not going to pick up self-employed stonemasons, it is not going to pick up large parts of the population who have been exposed to silicosis. You are only dealing with people who are employed, are you not?

Dr ALLSOP: Correct.

Mr DAVID SHOEBRIDGE: And only the ones you get to see. You are not sharing that data with GPs who are separately referring people off for screening, are you?

Dr ALLSOP: Where the GP is referring for screening on the back of a belief that there is a work-related exposure, we are usually engaged by that GP.

Mr DAVID SHOEBRIDGE: If the GP knows to do that.

Dr ALLSOP: Yes.

Mr DAVID SHOEBRIDGE: Why not tomorrow just establish a statewide register of the results so everybody across the board can access it, like they do it in Victoria?

Dr COLQUHOUN: I think the other way to look at it is that a national register would be a lot more appropriate. If we cannot make it a national register then I think a State-based register makes a lot of sense.

Mr DAVID SHOEBRIDGE: But all we are hearing about a national register at best, at some point in the future—whenever that happens—is a register of people who have been found to have silicosis. I have not heard anywhere that there are moves to establish a national register of results. If we just wait for a national register like we waited last time we came here for a register of people who have silicosis, we will be back here again in two years' time saying, "What is happening", won't we?

Mr NAGLE: I think we are have previously indicated our support for a register. That has not changed.

Mr DAVID SHOEBRIDGE: This is not just a register of people who have silicosis, it is a register of all the results so as to follow the trends—and not just for icare but a statewide, mandatory register. Do we have support for that?

Ms DONNELLY: Yes. There is work which I know the Committee would be aware of, both at the national task force level and also the Government's position in responding to the Committee's previous review, to support in principle to proceed in New South Wales, if there is not a national register. Through the work we have been doing in partnership with icare, NSW Health and others, we are seeing opportunities to learn from other places, including looking at a register that would capture exposure when a worker has been at risk, not just at the point of diagnosis. Some of the other considerations are the importance of not limiting it to situations of mandatory reporting because the person is a worker entitled to workers compensation—in this case in the dust diseases scheme—but to also include more broadly notification from clinicians, from diagnostics services and so on, regardless of the connection to work. So, to be quite supportive and working towards that with others. Therefore to have an effective register—and I think we spoke about this earlier in the year in the previous hearing and our exploration certainly indicates that it is feasible—there is an important requirement for mandatory notification to

CORRECTED

have the coverage and to know that you can rely on the data, and notification from clinicians and diagnostic services, therefore coming under the space of health is therefore an important component.

The Hon. ANTHONY D'ADAM: What is the mechanism for that? How does that actually occur—

Ms DONNELLY: Come into practice?

The Hon. ANTHONY D'ADAM: —the mandatory notification? What is involved in that?

Ms DONNELLY: There are some options that are being explored and I might pass over to Dr Casey in a minute. Options include mandatory notification under public health legislation, administered by the health Minister—

The Hon. ANTHONY D'ADAM: Is that a regulatory step?

Ms DONNELLY: Yes. There are notifications for largely communicable diseases and some other diseases in place in different jurisdictions. The other option is to link it to work health and safety legislation, but weighing up the benefits of those two options is part of the discussions.

The Hon. GREG DONNELLY: What is brought into the frame in terms of that weighing up exercise? What are the advantages vis-a-vis the disadvantages and the weighting of those?

Ms DONNELLY: I am happy to pass over to Dr Casey, but the obvious one is that we already have a strong history in New South Wales—with the dust diseases scheme—of a specialised compensation scheme that captures information about workers who have been diagnosed because they all make their claim in that scheme. One of the factors is exactly to Mr Shoebridge's point: What kind of register will capture more widely people who may have more contingent—maybe self-employed, maybe contractors may have a different exposure than a traditional employee. Dr Casey may want to add to that.

Dr CASEY: The only things I would add to that is that I think it would require legislative change, not regulation. That would require changes to the Public Health Act or the work health and safety legislation. Work to date with the feasibility of a register is in some ways is the easy part, in terms of there is a mechanism by which you can establish a register. It is the notifiable—how do you get the diagnosis into that register? The Queensland example and what is happening in Victoria would suggest that in terms of capturing more people and that be more comprehensive, amendments to the Public Health Act would probably be a more sensible approach.

Mr DAVID SHOEBRIDGE: And that part of it should be public health led?

Ms DONNELLY: Yes.

Dr CASEY: If it is changes to the legislation.

The Hon. GREG DONNELLY: With respect to the framing of what that public health response would be via a Public Health Act, to deal with a matter like we are dealing with now—the issue of silicosis, a dust disease—are you in a position now or on notice to give us any pointers towards a framework in a public health piece of legislation—what it would look like? Perhaps if not in Australia then in other jurisdictions overseas?

Dr CASEY: I am happy to take the detail of that on notice.

The Hon. GREG DONNELLY: Sure. But perhaps a general comment?

Dr CASEY: The Queensland legislation has put that framework in place.

The Hon. GREG DONNELLY: In your judgement—if you feel comfortable to answer it, do; if not, just say so. You may not have a familiarity with the Queensland framework. However, do you—with what you know of that framework—believe it is a robust framework and one that is for us in New South Wales worth having a look at?

Dr CASEY: I would have to take that on notice. It certainly provides a framework to look at in terms of the public health changes.

Ms DONNELLY: I think there was evidence earlier in the week from Dr Edwards that would indicate it is still a space where there is learning happening. The Queensland model is quite new. The Victorian considerations, I understand, are looking at also registering when someone has had exposure, which is an add-on. We will take that on notice, but there are some insights from a few different jurisdictions.

The Hon. NATALIE WARD: Thank you all for coming today. I apologise that I was not here this morning. If any of these questions have been answered already I am happy to be told so. Mr Nagel, if I can turn to you and icare—but anyone can feel free to answer: We may well have screening and we may well have compensation schemes afterwards, but I am interested in prevention. I am interested in education and prevention.

CORRECTED

I have looked here at your helpful description about your role and what it essentially does. Can you tell me to what extent your roles involve education, prevention and incentivisation to your insured?

Mr NAGLE: Absolutely, but I think Mr Allsop has probably got the best answers for that.

The Hon. NATALIE WARD: Because I could not see any here.

Dr ALLSOP: We are certainly engaged heavily with SafeWork NSW in terms of supporting them as they go out to the various worksites around New South Wales and seek to instil best practices. It is not sitting with us, in terms of actually sanctioning inappropriate practice or even providing guidance on the most appropriate use or handling of silica-related products. That does sit with SafeWork NSW and Safe Work Australia. I believe a guideline was recently published by Safe Work Australia detailing its current view around the safe handling of silica-related products.

We are certainly supportive of the work it is doing in terms of education. We are lending use of our lung bus and various other facilities at our disposal to make sure that we are getting the message out as widespread as we possibly can in conjunction with SafeWork NSW. We have supported it financially in terms of some education and awareness media campaigns that it has done. We are partnering with it at the moment on a real-time silica detector that it is having someone in the UK develop. It would sit in the workplace and actually give you real-time feedback instead of the current process, which involves sending samples away and waiting about a month. It would give you real-time feedback on the level of silica dust in the air.

The Hon. NATALIE WARD: That is terrific. However, can I interrupt you there? For your dad and son operators who are cutting this onsite, I assume that they do not have either the guideline or the testing machine. What are we doing about those coalface, frontline guys? We all know that if you drive a car you put on a seatbelt; if you ride a bike you put on a helmet. What are we doing to educate guys that if you are cutting this stuff up on site you put on a mask?

Dr ALLSOP: SafeWork has certainly got a number of campaigns running to try and raise awareness of the risks involved with silica products.

The Hon. NATALIE WARD: I do not mean to be base, but is it at that level? A guideline is fine but it is not actually at that level at all.

Ms DONNELLY: I know that SafeWork NSW has been delivering some awareness campaigns—including information about what mask to wear and that sort of thing—in a range of community languages, multichannel. It has also been running symposia and getting information out to peak bodies, unions, medical professionals and so on—people who are leaders in the community who are engaging with workers. It also has some roadshow events around regional New South Wales.

The Hon. NATALIE WARD: Do we incentivise it in our structure for insurance. There is the provision of masks at the very base level at the coalface cutting this up. If you provide masks to your workers or you demonstrate that they will have them, we have some evidence about the types of masks, there are better masks than others, what are you doing at your level because there is a lot of information about how we are customer centred and we do all these great things but what are we doing where it matters the most?

Mr NAGLE: In the premium model in terms of how we have constructed the premium model there is an up-front and centre for all employers to invest in the safety of their workers, those that are currently 7½ per cent discount off their basic premium for them to invest in any safety service that they want for their workers. I think the issue that we keep on finding in this space is—

The Hon. NATALIE WARD: Sorry to interrupt you, but on that self-employed probably migrant or immigrant bloke who comes along with his son or somebody else may not be aware of any of that.

Mr NAGLE: That is right. We have tried to improve the information that we have on our website and the information that we have sent out. We have also put it into a number of languages. But our biggest difficulty in the space is getting people to come in for screenings. We have worked with SafeWork and the industry to go out to industry in various locations with the Lung Bus or bring people in to Pitt Street. Single biggest is that people are scared of the screening, scared of what the outcome may be. Whilst that has not dramatically changed over the last 12 months with more awareness, we still have further to go to try to reinforce that. The other difficulty we have is getting to the single tradies. A self-employed tradesman unfortunately is not covered by our scheme.

The Hon. NATALIE WARD: That is right.

Mr NAGLE: But the individuals normally have one or two apprentices or supporters. They are the people we are trying to get to.

CORRECTED

The Hon. NATALIE WARD: I am sorry if it is more of a policy question, I do not mean to place it into that area, but it seems to me that it is quite a large area that we could be focused on in terms of prevention and for all the money that is floating around in the scheme and other things

The CHAIR: Can I jump in there?

The Hon. NATALIE WARD: You are the Chair.

The CHAIR: What would qualify for the 7½per cent incentive?

Mr NAGLE: It is automatic.

The CHAIR: Automatic for what, what do you have to do?

Mr NAGLE: Nothing. It is how we calculate the premium. The dust diseases portion of your workers compensation premium is calculated across the whole scheme. It is just an allocation to the dust diseases area. Within the workers compensation premium we call out what is your basic premium, then we specifically call out you have a safety incentive discount to work on prevention activities.

The CHAIR: How do you get it?

Mr NAGLE: We take it off the premium. You do not have to pay it. So it is yours, you qualify for it.

The CHAIR: How do you get it?

Mr NAGLE: It is automatic.

Mr DAVID SHOEBRIDGE: How is that an incentive?

The CHAIR: The old premium discount scheme, you used to have to be audited by someone who would go through your safety management system and validate. How are you doing it? The question is, how are you validating it?

Mr NAGLE: We do not. What we are trying to do is change the behaviours by saying your premium could be this, but we want you to spend this money and invest in the safety of your workers, so we will make your premium this.

Mr DAVID SHOEBRIDGE: What makes them spend that money on the safety of workers?

The CHAIR: If we were targeting a specific area, in order to qualify for my workers compensation I have to tell you the type of work that I am doing and that calculates my premium. Surely there is then a mechanism, is there not, for you to go through a process to get the discount and to be able to submit what I am doing. Do I actually have safe work method statements? Can I show a receipt for ventilated equipment that I have purchased? Have I got a proactive engagement with an occupational hygienist who is testing my area?

Mr DAVID SHOEBRIDGE: Work health and safety representatives?

Mr NAGLE: We have been working on the basis that most employers are responsible. The costs of administering a program like that would be reasonably comprehensive.

The CHAIR: What is the cost at the other end when people end up going through the bus and being diagnosed? Do you have a per worker figure to treat someone with silicosis?

Dr ALLSOP: We do. We have annual costs. I am not sure we have got them here today, but we can certainly provide that.

The CHAIR: I will come back. What is happening is you get told what your premium could be if you are not safe, therefore we think that you are all safe, so we will give you a 7½ per cent discount, but we are saying to you if you are going to be bad your premium will go up. Rather than starting there and saying, "This is your premium", now you have to actually validate to get the reduction because it is too costly to run. Is that right?

Mr NAGLE: It would be very expensive to run that kind of process.

The CHAIR: What is the total income from premiums that you get?

Mr NAGLE: Workers compensation?

The CHAIR: Yes.

Mr NAGLE: It is about $2.3 billion.

The CHAIR: What is 7.5 per cent of that? You say that you are giving a discount of 7.5 per cent.

CORRECTED

Mr NAGLE: It is about $300 million.

The CHAIR: Let us charge everyone the full rate but let them qualify. The 7.5 per cent that we charge would probably fund the resources to be able to validate it, would they not?

Mr NAGLE: It could do. The perception that we have is most employers are doing the right thing.

The CHAIR: Sure.

Mr NAGLE: What we are trying to do is make sure that the impost of workers compensation premium is reasonable because it does impact employment. At the same time, what we are trying to—

The CHAIR: I was on the workers compensation inquiry. I was in this space before I got into Parliament. My masters is in OHS. I know where we are going in this. They used to be schemes where you had to have it accredited and validated to get it. We are now just saying it is not worth the paper. If everyone is safe, why even say you are going to give them a discount?

Mr NAGLE: Because 70 per cent of employers have no claim. We target either the industry groups or the employer groups that generate the highest levels of claims.

Mr DAVID SHOEBRIDGE: The assumption is that this is a safety discount in order to allow employers to spend that money on safety. I would have thought you would have at least a self-assessment where they give you a statutory declaration that says, "Yes, we spent that on safety". Then you could audit 1 per cent of them every year as a check and balance and see if it is working. At a minimum you should be asking them to spend that money on safety. But you are not doing that?

Mr NAGLE: No.

Dr ALLSOP: Coming back to the earlier question, the average lifetime cost for somebody diagnosed with silicosis is around half a million dollars, remembering that we have only about nine to 12 people who are diagnosed and compensable per year at the moment.

The CHAIR: A small number but for every one of them 100 per cent of their life.

Mr DAVID SHOEBRIDGE: That brings us back to the comprehensive nature of the screening and the nature of the screening in terms of numbers

The Hon. NATALIE WARD: icare has a foundation, does it not?

Mr NAGLE: It does.

The Hon. NATALIE WARD: What does the foundation do and how much in terms of funding is in the foundation?

Dr ALLSOP: The foundation is not directly involved with dust diseases because we have the standalone Dust Diseases Board. That board is charged with administering grants for research into dust-related disease and its prevention, treatment and diagnoses.

The Hon. NATALIE WARD: What did it spend on that in the last financial year?

Dr ALLSOP: Its annual budget is $1.5 million.

The Hon. NATALIE WARD: On silicosis research?

Dr ALLSOP: On dust research. We have $250,000 of that carved out specifically for silicosis.

The Hon. NATALIE WARD: From last year, I recall it was the person in Western Australia that was funded to do that, is that right?

Dr ALLSOP: It could be. I would have to check that.

Mr DAVID SHOEBRIDGE: There was some contention about that.

The Hon. NATALIE WARD: There was some contention about that. I did not personally have an issue with it. I am glad somebody is researching it. My query is around whether there is potential for incentivisation. Ultimately our goal is to make you guys redundant and not have this problem. If you are an employer or someone in this space and some dough is spent on incentivising so that somebody who is cutting this stuff up at the coalface has a better face mask—so workers do not have a paper face mask—we have had evidence about the better standard of masks. Better seatbelts save more lives, better helmets save more lives. Should it be incentivised and mandated? That may be a policy question. There is no incentivisation in setting up insurance premiums or otherwise at this stage?

CORRECTED

Dr ALLSOP: The dust diseases levy itself makes up a tiny component of the overall workers compensation premium. It is 0.34 per cent roughly. That varies by industry segment but it is not a big amount of the premium, so that will not have an effect. The biggest catalyst for changing safety in the workplace are the SafeWork interventions. It is their audits and the power they can bring to bear in terms of making sure workers are protected and employers are doing the right thing.

The Hon. NATALIE WARD: I appreciate that they were here earlier and I did not direct my questions to them, so I apologise. It might be something I send on notice to them.

The CHAIR: No, they have not appeared.

The Hon. NATALIE WARD: Sorry, I thought they had.

The CHAIR: Not, not today.

The Hon. NATALIE WARD: I thought it was something we asked them to answer.

Dr ALLSOP: And we are closely connected with SafeWork, so we are making sure that we are visiting the sites that they visited where they issue improvement notices—

The Hon. NATALIE WARD: Can I ask you to take this on notice, Dr Allsop and anyone else, for SafeWork. When they go out onsite do they ask, "What kind of mask do you use?" Is there any way that they can incentivise or otherwise encourage the use of better or more comprehensive masks, which leads to better outcomes?

Dr ALLSOP: We can certainly take it on notice but the discussions we have had with them indicate that they are enforcing wet cutting. They are educating on the right level of protective equipment to wear, the right sort of ventilation, knowing that source-based ventilation is far better than the overhead ventilation. The Safe Work Australia guideline that was published recently talks about the breathing zone around an employee and making sure that you are keeping dust away from that zone. There is a lot of discussion as well about whether or not masks fit if you have got facial hair and whether or not there should be a restriction on facial hair.

The Hon. NATALIE WARD: Yes, we had some helpful pictures on that mandating clean shaving policies.

Dr ALLSOP: Yes.

The Hon. ANTHONY D'ADAM: I would support that.

Mr DAVID SHOEBRIDGE: I am ambivalent about that.

The Hon. GREG DONNELLY: I oppose it.

Mr DAVID SHOEBRIDGE: But if it saved people's lives—

The Hon. GREG DONNELLY: Indeed. I don't work in this industry.

The Hon. NATALIE WARD: I ask you to take on notice what the breakdown is between employed people dealing with cutting this stuff—it maybe difficult to ascertain and maybe a question for another body—but what percentage of self-employed people are doing this? I understand the majority anecdotally are self-employed?

Mr NAGLE: I think it goes to Mr Shoebridge's question. There is not a register that would have that information. We would only have the information on workers.

The CHAIR: Ms Donnelly, you said that you were willing to take questions on notice on behalf of SafeWork?

Ms DONNELLY: Yes.

The CHAIR: They have declined to come here today. You are representing them, are you?

Ms DONNELLY: Well, I can't speak for them. I am not representing them and I report to a different Minister but knowing really after the fact that it was apparent that they were not going to appear—

The CHAIR: Did they give you a reasoning why they were not coming?

Ms DONNELLY: No. I have simply clarified with them that I can offer to take questions on notice and take questions for them to assist the Committee.

Mr DAVID SHOEBRIDGE: I think we might have a confidential discussion amongst the Committee about that. And part of the problem is you are the bunnies in the spotlight but SafeWork was in charge of that task

CORRECTED

force and we are asking you tough questions about what the task force is but Safe Work was in charge in that, and you are here, I am sorry.

Ms DONNELLY: I am here. It is very clear, a couple of things. I mean, State Insurance Regulatory Authority [SIRA] is subject to the oversight of the Law and Justice committee so I am always happy to be here.

Mr DAVID SHOEBRIDGE: You are always and you help us.

Ms DONNELLY: I am always here.

The CHAIR: You also read the transcripts from earlier in the week as well—

Ms DONNELLY: I have.

The CHAIR: —so you knew you were coming and this is how we normally would expect witnesses in an inquiry who are going to be questioned to have a look at what others have said. The frustration you can probably sense from us is that we had the Master Builders Association here this morning. We ask them questions and they say, "Well, that is up to SafeWork" because they are the enforcer in these things. They run the inspectorate to be able to come along to worksites. We speak to icare and admittedly of course you say, "Well, that's not our role. That's the role of SafeWork. They're out there in the education, the prevention, the inspection". Honestly, you are all wasting your time coming to us, and we are wasting our time if they are taking the piss, because the only way that we can actually get something through to the broader public, not the people you represent, the individual employed worker, is through the agency that is responsible for driving that awareness.

Mr DAVID SHOEBRIDGE: And probably NSW Health as well.

The CHAIR: Yes, that is right, but this is now my frustration. This is me just letting that out. We will have that discussion about SafeWork. So, respectfully, we will not put you through the case of having to take questions on behalf of SafeWork. We will deal with that directly, but thank you for coming.

The Hon. GREG DONNELLY: It has been a very, very busy week here in the Parliament so just bear with us. We have had some very late nights and very long sitting days so we are all pretty buggered, to be honest.

Ms DONNELLY: I think a few of us have had that too.

The Hon. GREG DONNELLY: Yes. It has been a particularly busy one for us.

Mr DAVID SHOEBRIDGE: Queensland has moved to a fee-free screening process. It does not matter whether you are employed or not employed, it does not matter how you got exposed—if you want to be tested for silicosis it is free and it is universal. If you live in the regions that includes transport to where you get the testing done. What is the situation in New South Wales?

Dr ALLSOP: We certainly provide subsidised screening to any worker who wishes to be screened. Should they come to us directly then it is completely free. If they are from an employer who employs less than 30 people then it is completely free as well.

Mr DAVID SHOEBRIDGE: If that is the subject of an improvement notice.

Dr ALLSOP: No, regardless. And if they are from a larger employer then it is heavily subsidised and the employer pays, not the employee. So from an employee perspective the screening they can get is without cost. We also provide payment should it be required and they go directly to their own GP rather than through our services.

The Hon. ANTHONY D'ADAM: On that issue, is it a case of someone has been an employee at some stage where they have been exposed or do they have to actually be an employee currently?

Dr ALLSOP: No. At any stage if they believe they have a work-related exposure.

The Hon. ANTHONY D'ADAM: So people can weave in and out of employment or subcontracting arrangements and they would still have access to the scheme.

Dr ALLSOP: Correct.

Mr DAVID SHOEBRIDGE: But if they are self-employed—

Dr ALLSOP: Not self-employed—yes.

The Hon. ANTHONY D'ADAM: If they were an employee at one stage they are eligible; if they have always been a subcontractor, they are out; if they are subcontractor now and were an employee at some stage then they are in—is that right?

CORRECTED

Dr ALLSOP: If they believe their exposure occurred in that period that they were employed, yes.

Mr DAVID SHOEBRIDGE: In whole or in part.

Dr ALLSOP: Yes.

Mr DAVID SHOEBRIDGE: The answer to the prehearing questions that icare gave was:

> icare provides occupational health screening free of charge to small businesses with less than 30 employees who are issued with improvement notices from SafeWork. A further 50 per cent subsidy is applied for those businesses with over 30 employees who are issued notices from SafeWork NSW, reducing the subsidised cost of screening from $100 to $50 per worker plus GST. Employers who voluntarily have their staff screened through icare without a SafeWork NSW notice pay a subsidised rate of $100 per worker.

That is not right?

Dr ALLSOP: That is correct, yes.

Mr DAVID SHOEBRIDGE: So it does not matter if they are a big or a small employer—if they put their hand up and do it voluntarily they pay $100 per worker.

Dr ALLSOP: I would have to take that on notice and double-check.

Mr DAVID SHOEBRIDGE: That is how I read this. You get the subsidy if you are small and you are the subject of an improvement notice from SafeWork—you get 100 per cent; you get it free. If you are not small but you have an improvement notice from SafeWork you get a 50 per cent discount.

Dr ALLSOP: I would have to take it on notice regarding the small employers and if they are coming to us directly. My expectation—and if it is not the case we will be looking to address it—is that they would still be receiving fully subsidised screening.

Mr DAVID SHOEBRIDGE: You see, big, small or middle-sized, surely we want to encourage employers to be voluntarily putting their hand up for screening. And in fact they are the ones who should be free. The ones who are being told they have to do it because of an improvement notice, well, they can pay the full freight because SafeWork has been in there and found a problem. It seems to me that arrangement is back to front. The very people we should be saying are free are the voluntary ones, yet the ones you are giving the discount to are the ones who are being forced to do it because SafeWork has gone in and found a problem. I do not understand that arrangement.

Dr ALLSOP: You make a good point. It is one that we can take back and look into further.

Mr DAVID SHOEBRIDGE: And what about universal free access? If we decided to roll out universal free access and it went beyond just self-employed, if it was anybody, assuming that would require an additional stream of funding from outside the premium, would icare be the best agency to roll it out or would be better off looking to NSW Health? You might want to take that on notice.

Dr ALLSOP: Yes. And it may be a combination.

The Hon. GREG DONNELLY: My question is directed to the panel. Whoever wishes to jump in, feel free to do so. I equally share the frustration—I guess that is the word—of the Chair in that we are juxtaposing the evidence from this afternoon and this morning, and I will come back to this morning's evidence from the Master Builders Association as I explain this, that the evidence we received on Monday from the medical experts was pretty clear about the very real medical health concerns associated with the particular dust disease. No-one seems to be controverting that—in other words, the bells are ringing pretty loudly. It goes to the Hon. Natalie Ward's question—which was very critical—of what we are doing looking forward. The issue of dealing with workers who have had exposure up until this point and the treatment of such injured workers or workers effected by disease is going backwards. That needs to be attended to the highest possible standard we can afford to ensure that we do not have "Asbestos mark 2".

The Hon. NATALIE WARD: Correct—the James Hardie.

The Hon. GREG DONNELLY: Frustration is building. If you take the Master Builders Association as an example—and I was looking to paraphrase their evidence from this morning—they essentially said they believe that the flow of information is now running out quite widely. You can read the transcript yourself on Monday. It will be on the website. They said there are now workshops, occupational health and safety conferences, et cetera, where this information is flowing out and that there is a rising tide of awareness about this. They say that that information is permeating the building and construction industries and—to an extent—the parts of the manufacturing industry that deal with this. That is their testimony. Awareness is rising. But they are simply making an assertion that they are seeing and hearing more people talking about the issue and therefore it must be

CORRECTED

coming right. And when it came to us probing them with questions about enforcement and what regulatory standards there should be and to us trying to prosecute the argument of trying to test their claim so that we are able to demonstrate that what they were saying is manifesting in higher standards being met, they were entering into this sort of vacuous position and no-one would comment. They would say, "We cannot comment on that. We are the Master Builders Association."

Then we have the issue of the regulator not being present to field the questions we want to ask. That is why the frustration for all of us—across parties—is building and building. That is further complicated by the evidence about the always testing situation of the federation arrangement in Australia. We have got different States doing different things at different points. And the Commonwealth, through the process of the Council of Australian Governments and related agencies, is doing something else. If everybody is talking about this, what is required to give everyone a rocket, so to speak, to come together and coalesce? We need to have the very best heads in the room. We have obviously got some very good heads in the room here, from the point of New South Wales. But we need to find a bigger room and bring people in. We need to bring this together and turbo charge the acceleration to move this along. I am particularly concerned about that issue between the Commonwealth and the State. People are saying, "Queensland is doing this and the Vics are doing this"—

Mr DAVID SHOEBRIDGE: It is a mess.

The Hon. GREG DONNELLY: Indeed, it may well be. I have a policy question that you might not wish to comment on specifically. But as a general statement from people who are very serious about the area of occupational health and safety, do you have some general reflections for us on how the policy of New South Wales and the State of New South Wales should push this issue forward and give it the attention it needs to bring it into sharp focus, given that New South Wales makes up a third of the Commonwealth?

Ms DONNELLY: I might venture into—

The Hon. GREG DONNELLY: That was a very long question with a very long run up.

Ms DONNELLY: There was a lot in there. I can speak to some of that. At present I am the New South Wales representative on Safe Work Australia. In the time that I have been in that role we, along with other jurisdictions, have advocated for lung disease to become a stronger priority.

Ms DONNELLY: The guidance material that was approved at a recent Safe Work Australia meeting and issued in September around working with silica and silica-containing material, for instance, was prioritised to come out nationally and have clear guidance. There has been consideration, advice and recommendations given to all Ministers around the country to halve the workplace exposure standard for crystalline silica and to work towards reducing it further. I can say confidently that national body does provide a forum for the jurisdictions to work together. Safe Work Australia is represented on the National Dust Diseases Taskforce that is looking at the national register as well so there are mechanisms nationally for this work to get joined up. Notwithstanding that, to our earlier comments that the New South Wales Government's position is supporting in principle that if that registered does not proceed quickly enough, we would work towards one in New South Wales.

Mr DAVID SHOEBRIDGE: The evidence we heard on Monday was that a national register will be a collation of all the State registers. New South Wales has its register, Queensland has its register and they all share data with some kind of national data hub. That is probably how it is going to be.

Ms DONNELLY: And quite practically it will be.

Mr DAVID SHOEBRIDGE: So let us get it started.

Ms DONNELLY: We gave evidence before that we need to work in New South Wales on getting it started anyway.

Mr DAVID SHOEBRIDGE: We said that last year. And we are here. So?

Ms DONNELLY: I know. We can share with you that there has been work underway to ascertain which of the options we would implement in New South Wales. Dr Casey may want to add a little more but that work has begun and is in place.

The Hon. NATALIE WARD: Just to belabour the point, you have opened the door so I am going to go through it. In fairness, all of that is after-the-fact stuff. All of that is "once it is a problem". Even halving the standard is again just a way to enforce afterwards. What are we doing about prevention? Each of the entities has said here that they are customer-centred, icare is customer-centred services. The State Insurance Regulatory Authority [SIRA] deals with ensuring key public policy outcomes are being achieved. SafeWork NSW talks about its inspectorate that has a focus on harm prevention and improving the safety culture. All these things are after the

CORRECTED

fact. I ask you to take on notice, what is SafeWork NSW doing? What preventative measures does it have in place and can it conject about what others potentially could have?

The CHAIR: Can I just pick up on the halving of the exposure?

Ms DONNELLY: Certainly.

The CHAIR: So the Master Builders Association this morning and also the Mine Ventilation Society of Australia were both advocating that should not occur. The Master Builders said there is not the technology available yet to accurately measure crystalline silica at the workplace to that level by hygienists. Do you have—

Ms DONNELLY: I am happy to give you a bit of background on that. This has been very thoroughly and constructively canvassed. There are diverse views. I certainly know that in the lead-up to that Safe Work Australia meeting most of the people around the table were being heavily peppered with emails and other information and hearing from stakeholders. There are some practical issues that have been raised, so I will acknowledge some of those that I have heard as well. The standard currently—1.0—was recommended to drop to—

Mr DAVID SHOEBRIDGE: It is 0.1.

Ms DONNELLY: Sorry, it is 0.1, you are right. It was recommended to drop to 0.05 milligrams per cubic metre and is a time-weighted average over an eight hour shift. So one of the technical issues for some workplaces is if a worker for instance does five shifts a week and they are 12 hours each, then it is a lower level that needs to be measured and enforced in order to have the equivalent protective benefit.

The Hon. ANTHONY D'ADAM: Can you explain how that—

Mr DAVID SHOEBRIDGE: Cumulative exposures. It is about cumulative.

The Hon. GREG DONNELLY: No, I think you have got a question.

The Hon. ANTHONY D'ADAM: Sorry, I do not understand how that works. Can you explain the mechanics of that?

Ms DONNELLY: The level has been recommended as the best evidence indicating that this is a level where the dose, if you like, does not create a harm cumulatively, to Mr Shoebridge's point. So it is over an eight-hour period—the time-weighted average of what the level would need to be monitored at. So if you work a longer—

Mr DAVID SHOEBRIDGE: But you would get a 50 per cent more dose of that if you worked for a 12-hour shift.

Ms DONNELLY: Exactly.

Mr DAVID SHOEBRIDGE: That is what is to be taken into account.

Ms DONNELLY: You need to then reduce the exposure level to have the same level of protection. That is one of the technical issues. One of the other issues that is being considered is do there need to be modifications to the model Work Health and Safety Regulation to ensure that the right level of air monitoring is mandatory, that the right sorts of breaches need to be mandatorily notified et cetera—so the regulatory architecture being in place to enable practical enforcement. I acknowledge the views—sorry, I did not hear the evidence this morning but there are obviously diverse views on this.

Mr DAVID SHOEBRIDGE: The evidence we heard on Monday was that being exposed to the current standard, which is 0.1 milligrams a year over the course of a year, working full-time, was the equivalent of smoking a packet of cigarettes a day for a year.

Ms DONNELLY: I saw that evidence.

Mr DAVID SHOEBRIDGE: They were saying the current standard is that. That is a frightening thought.

Ms DONNELLY: That is one of the reasons for the recommendation being to halve the current standard as soon as practicable.

Mr DAVID SHOEBRIDGE: But the evidence we got was when you are talking about this standard, really, you could be talking about how many angels dance on the head of a pin because when you go into workplaces, even wet cutting is seeing exposure standards at 50 times the current rate. Dry cutting is seeing exposure standards at 200 or 300 times the rate. In some ways we are having this conversation over here about

CORRECTED

the academic standard, when the reality in workplaces is vastly worse. Do you agree that that is the kind of reality in workplaces?

Ms DONNELLY: I have not seen that evidence that you are quoting, but I do agree that it needs to be more than a promise of a standard in words. It needs to be able to be implemented and needs to be enforced.

Mr DAVID SHOEBRIDGE: The Hon. Antony D'Adam reminds me that is in the lawyer's evidence—in Maurice Blackburn's evidence. They are talking about exposure from—

The Hon. GREG DONNELLY: From Monday this week.

Mr DAVID SHOEBRIDGE: It is in their submission: Exposure when you are wet cutting, at the point of wet cutting, is something like 4.9 milligrams per cubic metre, which is, like, 50 times the current standard. That is wet cutting. Exposure when you are dry cutting is heaven knows how much more than that.

Mr DAVID SHOEBRIDGE: Is that your understanding, Dr Colquhoun?

Dr COLQUHOUN: Yes, that is correct. I suppose the other question that we probably need to pose—and I do not know if I am able to ask questions—is why are we using a time-weighted average of eight or 12 hours when the nature of the industry is short, intermittent, high-dose, massive volume of dust? We do know there is a peak limit and a short-term exposure limit. That is a question, not a statement.

Mr DAVID SHOEBRIDGE: In fact, that peak exposure may be part of why we are seeing this kind of modern phenomenon of really aggressive silicosis.

Dr COLQUHOUN: Correct.

Mr DAVID SHOEBRIDGE: Time-weighted average might be missing the conversation entirely.

Dr COLQUHOUN: Yes, correct.

The CHAIR: Because it is not the same environment, either. It is a harder set of environments and circumstances to be able to calculate. A lot of it is outdoors—some of it is outdoors and some of it is inside, so it is all going to vary. That also requires an understanding of the amount of silica in the product prior to commencing the activity. I can cut through cement or I can cut through manufactured stone. There is going to be a difference between those two. And we are dealing with industries that have predominantly some low literacy and numeracy issues. From my experience, when it is too hard it just does not get done in the construction industry, let alone—they're not worried because some of them are probably smoking their 20 cigarettes anyway, so this is just adding on top. We are dealing in some traditional industries that this is going to be a challenge. No question; just a statement.

The Hon. NATALIE WARD: It is hard enough getting you blokes to a GP anyway, let alone a tradie who does not have time and, if the Lung Bus is not available, is not going to pack up for the day and say, "I'm off to the GP or to get a lung test." It is just not going to happen. So there is a huge gap here, in my observation, about where we are targeting this.

Mr DAVID SHOEBRIDGE: I am going to ask you a question. In work health and safety [WHS] there is a hierarchy of responses to risk. I will ask you the next question, thinking that I know the answer. What is the best response to a risk?

Ms DONNELLY: To eliminate.

Mr DAVID SHOEBRIDGE: Eliminate the risk. We have got a risk from manufactured stone that is killing workers. Why do we not eliminate the risk? Why do we not ban the product?

The Hon. NATALIE WARD: I think that is a policy question.

Mr DAVID SHOEBRIDGE: No, you must have some idea as to why the task force did not come to this conclusion, why nobody is coming to this obvious conclusion. When you look at the hierarchy of WHS, that is the first response we go to.

The Hon. NATALIE WARD: Flying aeroplanes is dangerous too. We do not ban them; we have safety standards around them.

Mr DAVID SHOEBRIDGE: But having a shiny benchtop is not so important, is it?

The Hon. NATALIE WARD: Flying may not be either but you have to have safety standards around it that can be enforced. You cannot just ban a whole industry.

CORRECTED

Dr ALLSOP: There is an argument around where you stop as well because sandstone contains silica, so should we not cut sandstone?

Mr DAVID SHOEBRIDGE: We were not seeing silicosis cases coming from—

Dr ALLSOP: We were. Not at the volume we are getting but we have been seeing them come through.

Mr DAVID SHOEBRIDGE: Absolutely, we should be careful of Sydney sandstone, in particular, because of its high silicosis rate. I assume you are doing something on that separately. With manufactured stone, all the evidence on is of a unique, distinct and nasty problem. Surely one of the things that should be in the mind of regulators is removing the risk entirely. Do you agree that should be one of the suite of options that is considered?

The Hon. NATALIE WARD: With respect, I think that question is unfair. It is a policy question.

Mr DAVID SHOEBRIDGE: If you are unable to answer it, just say that you are unable to answer it.

Mr PARKER: To be helpful, not on behalf of SIRA, but not verbalising the unions, Unions NSW said it is not yet at a point where it is calling for that. In fact, it thinks that it is a complicated policy question and it would like to see some more research done—I think there is some being done between now and the end of the year—before they draw that conclusion.

The Hon. ANTHONY D'ADAM: The Construction Forestry Maritime Mining and Energy Union's submission is clear—it is calling for a ban on the product.

The CHAIR: Mr Parker said Unions NSW.

Mr DAVID SHOEBRIDGE: The Master Builders Association of NSW [MBA] said dust from manufactured stone should be treated the like asbestos. If that is what the Master Builders Association of NSW is saying—that we should treat the dust like asbestos—the response we had to asbestos was banning the product, was it not?

The CHAIR: To be fair, because they were here this morning and you were not here—

Mr DAVID SHOEBRIDGE: Sorry, I was not here.

The CHAIR: They were drawing a dotted line between the type of awareness and campaign and even legislative response to asbestos and saying something similar should be applied to manufactured stone in the silicosis area. They were not saying straight out—although they do mention as one of their recommendations—

The Hon. GREG DONNELLY: Recommendation one, yes.

The CHAIR: They did not have a straight line, they had a dotted line between the two.

Mr DAVID SHOEBRIDGE: Mr Parker, if you have that position of Unions NSW somewhere, could you provide that to the Committee on notice? We have not got the benefit of a submission from them.

Mr PARKER: On notice, I will provide the contact that was comfortable with me passing that on today.

Mr DAVID SHOEBRIDGE: That will be helpful.

The Hon. ANTHONY D'ADAM: I want to understand the technology for air monitoring—how it works and what the environmental constraints are on its effectiveness. Is someone in a position to elaborate on that? How does that monitoring technology work? Is it dependent on having a contained environment, an environment that stays constant over that eight-hour period? Does anyone have that expertise?

Dr COLQUHOUN: I will give it a crack. There are two main types of monitoring; there is personal and area monitoring. Personal monitoring, as the name suggests, people actually wear on themselves. Area monitoring is basically a monitor that sits in a particular area of the room for the particular duration—eight hours or whatever the case may be. It has probably been 10 years since I have seen one of those so I am running on memory at the moment. Those monitors basically have a filter on them. They take them back to a lab and then lab stuff is done to them to try to ascertain exactly what quantity of hazardous substance is on there. I think that is potentially the area that technology may not be able to quantify at the current proposed exposure limits.

The Hon. ANTHONY D'ADAM: Is there no immediate notification? The monitor does not give you immediate feedback, it has to go back to a lab for analysis?

Mr DAVID SHOEBRIDGE: A radiation monitor or something?

CORRECTED

Dr ALLSOP: The piece of work that SafeWork are doing that we are supporting is looking at real-time monitoring of air quality and particles in the air. That work is probably a year away from actually yielding a device that could go into the workplace, but as far as we are aware that would be the first ever device that could do real-time monitoring.

Mr DAVID SHOEBRIDGE: That is personal monitoring. Do you wear it?

Dr ALLSOP: No, this is a desktop-based environment monitoring tool. They are looking at whether or not they can turn it into a wearable form as a second phase but at this stage that research is very embryonic.

Mr DAVID SHOEBRIDGE: Given the nature of how the dust is created, which is invariably through cutting, if you just have a monitor in the corner of a room it is hardly going to be an accurate monitoring of the exposure of the worker who is there when they are cutting, is it? In fact, it is almost certainly going to be wrong.

Dr ALLSOP: It would not be as good in terms of that personal space monitoring.

Mr DAVID SHOEBRIDGE: Dr Colquhoun?

Dr COLQUHOUN: If I can put forth an opinion I think any time you are cutting manufactured stone you have to make the assumption that if you breathe the stuff in you are going to die. You need to put all of the hierarchic controls in place, irrespective of whether or not there is a monitor available.

The CHAIR: To be clear as well, when we talk about a time-weighted average in the workplace—that is, as long as that atmosphere stays below that, then no control measures need to be put in place. Is that right?

Mr DAVID SHOEBRIDGE: No. That is not what you are saying, Dr Colquhoun, is it?

The CHAIR: What I am saying is, if we set a limit, if a workplace sits below that limit I can stand there like this. Once we know we are exposing people above that, that is when the rest of the hierarchy control has to come in, including the PPE.

Mr DAVID SHOEBRIDGE: As a question of regulation in response to the legal obligations?

The CHAIR: Yes. We set that limit to say that the workplace is safe below this limit and I do not need to take any extra measures to limit my exposure, because as long as it stays below that over that period of time then it is deemed to be safe. Once I go above that then I have to take those other measures. Is that right?

Mr DAVID SHOEBRIDGE: Ask it as a question of law, not as actually protecting workers' health, but as a question of law.

The CHAIR: We will put that to SafeWork, that is okay. I was more going about the change to the national level.

Ms DONNELLY: I am happy to take it on notice. Also, yes, there is a lens of health as well is law.

Mr DAVID SHOEBRIDGE: Dr Colquhoun, your evidence is that regardless of what is in the legislation as a safe exposure level there is probably no safe exposure. You should not inhale the dust from manufactured stone into your lungs ever?

Dr COLQUHOUN: That is correct.

The Hon. GREG DONNELLY: Ms Donnelly, just on this point, given your role connected with SafeWork and your work with SafeWork at the national level, is there any jurisdiction overseas that you have become aware of through your work in this area dealing with this particular issue that is really worth us looking at, not for the sake of just collecting more information, but that you have observed, that they are highly energised and working in a very focused way to deal with this issue in a comprehensive way? Is there any jurisdiction that we ought be looking at? Or perhaps suggesting through recommendations, without anticipating what we are going to be doing, we ought to be looking at in a very focused way. Maybe Dr Casey can feel able to do so.

Ms DONNELLY: Dr Casey may have some observations and we may also be able to take that on notice to give you some other information.

The Hon. GREG DONNELLY: Sure.

Dr CASEY: I think one of the challenges is still the relative newness in terms of looking to other jurisdictions. Manufactured stone has been used in Australia since about 2000. Places like Israel have had it for 15 years, one of the countries where it has been used for the longest, but they do not necessarily have the safety controls and the other engineering controls that Australia has in place. Looking to other jurisdictions is difficult for that reason in terms of understanding comparability of prevalence, incidents, which, again, is one of the issues we have with this.

CORRECTED

Mr DAVID SHOEBRIDGE: Are there studies from Israel? Are there health studies, epidemiological studies?

Dr CASEY: Yes, there are.

Mr DAVID SHOEBRIDGE: What do they say?

Dr CASEY: Their prevalence is I guess on par with what we are seeing now in Australia. They have been using it for longer. I would caution comparing because they do not have the 20 years of health screening that we have had in New South Wales and they do not necessarily distinguish between the older form of silicosis and the accelerated form of silicosis, so it is very difficult to compare. There are some studies from Israel, Spain, Italy and some other countries, which have perhaps been looking at this a little bit longer than we have here in Australia because of the exposure to the stone.

The Hon. GREG DONNELLY: But obviously those three countries, Vietnam, China and Israel—and we were told that about 40 per cent of what arrives at Australia's ports is from Israel—export to the world so in a developing nation or a developed nation, there is a lot of this material being used on a daily basis. There must be jurisdictions, perhaps in Europe or even in North American states—and you can go round—that really have eyes into this and surely the bells are going off pretty loudly in other jurisdictions?

Dr CASEY: Again, as Ms Donnelly said, we are happy to take it on notice. I would observe that we have only started seeing systematic reviews in the medical literature appearing in the last three to four years, so the evidence in terms of the causation and exposure, although it has been around for a while, is still emerging. We can have a look.

The CHAIR: We are just about out of time so I ask if there are any quickfire questions. I have one: Does working with manufactured stone have an impact on my workers compensation premium?

Mr NAGLE: It does in terms of the overall industry code that we would assess it against.

The CHAIR: So you get put into that industry code. So even though I may be a stonemason or do kitchen fit outs and I have made a decision not to because I am in that industry—

Mr NAGLE: Yes.

The CHAIR: Without going down the path of Mr Shoebridge and banning it, surely pricing may be another way to create some sort of disincentive or raise the awareness needed to put extra control measures in place—but that goes back to the whole question around premium discounting or premium weighting.

Ms DONNELLY: In looking at proposed premiums from icare and other insurers, we consider a range of principles and one of them is to support pricing that incentivises safer behaviour and better outcomes. It is something that we could consider.

Mr DAVID SHOEBRIDGE: But if the danger is not going to impact upon the nominal insurer, which is your standard workers compensation premium, where you have a chance to have leverage on price, but instead upon the tiny fraction of the premium that is paid on dust disease—

Ms DONNELLY: Of the levy.

Mr DAVID SHOEBRIDGE: You do not really have the lever there, do you?

Ms DONNELLY: The connection is—

Mr DAVID SHOEBRIDGE: You need a 10,000 fold increase in your dust disease premium to have an impact.

The CHAIR: It would still be worthwhile if you could have a look and see if there is anything in that space that we may be able to have a—

Ms DONNELLY: We undertake a review of the methodology for the distribution of the dust diseases levy every year. We look at whether there is evidence or new things we can consider. Certainly that can be factored in if there are opportunities.

The CHAIR: The danger here too though is that there is the assumption that we could just be dealing with a legacy issue and that I can start my business tomorrow and be doing everything very well. Therefore, because I am in that product, I will not be exposing people if I start tomorrow—

Ms DONNELLY: Yes.

CORRECTED

The CHAIR: —because a lot of people who you are saying have already been exposed, at a time when standards were not what they are now and awareness was not where it is now, so maybe pricing from here on is penalising those who are doing the right thing.

Ms DONNELLY: It is a very good point and one of the complexities in the pricing for the levy is that for some of the diseases are intergenerational because they are very long latency. For some of them, even though the employer is exposing workers to a hazard, other industries are benefiting. Clearly in the early days of the dust diseases scheme, where the water and sewerage network was being laid out through the Sydney sandstone, everybody benefited from those particular workers being exposed. There are a number of factors that we consider in fair pricing.

Mr DAVID SHOEBRIDGE: Everybody but the workers.

The Hon. ANTHONY D'ADAM: I have a quick question about the cost of dust monitoring technology. Is it prohibitively expensive? If someone is an installer are they going to be in a position to afford dust monitoring equipment?

Dr COLQUHOUN: I do not have the expertise to answer that question.

Dr ALLSOP: I think the bigger challenge is the time it takes to get the answer back. If you are an installer and it takes you a month to get an answer back as to whether or not your workplace was dusty, you have worked in 16 different sites since then anyway. We need that real-time monitoring to give people feedback instantaneously.

Mr NAGLE: If you work around this building there are dust monitors up on the other levels.

Mr DAVID SHOEBRIDGE: I was hoping you could give us on notice—it is probably through SIRA—what it would take to get the State register established, both for silicosis cases and for the historical recording of results. I think icare has in their submission this proposition from SafeWork:

> SafeWork NSW has indicated to icare that all manufactured stone sites in New South Wales have been visited, totalling 246 sites.

Can I say that I just find that an extraordinary proposition if that has come from SafeWork. Assuming they have got all the primary manufactured stone worksites, I would imagine manufactured stone is on pretty much residential building site, every multi-level apartment block all over the State. Could I ask you to give your considered view on whether or not icare has really got to all manufactured stone sites in New South Wales?

Ms DONNELLY: It is SafeWork NSW. My understanding is that those are sites—

Mr DAVID SHOEBRIDGE: Sorry, SafeWork. Yes.

Ms DONNELLY: —all the sites where fabrication is occurring. Not the same as installation and then being in place.

Mr DAVID SHOEBRIDGE: It is the installation where all the dry cutting is happening. That is what we are told. It is like they have missed it. Do you agree?

Mr NAGLE: No, two different things I think they are saying: People who actually manufacture the stone on site versus installing. Quite different.

Mr DAVID SHOEBRIDGE: Sorry, they are actually making manufactured stone?

Dr ALLSOP: No, not making; cutting to—

The CHAIR: They are cutting to length.

Mr DAVID SHOEBRIDGE: They are cutting to length.

Mr NAGLE: Cutting it on site.

Dr ALLSOP: Yes.

Mr DAVID SHOEBRIDGE: Yes, so that is the safe bit. That is where you are in a workshop and you can have large industrial wet cutting source. It seems to me that Safe Work has missed the worst part, which is the installation bit, where all the evidence is that is dry cut.

The CHAIR: But again, even this morning Master Builders gave a good scenario that a building that has got 100 units in it, if they get the first one there and realise there has to be extra cutting a cutting room is set up with the proper ventilation et cetera. That is another implementation question, probably, for Safe Work. What a way to spend a Friday afternoon. Thank you for coming along.

CORRECTED

The Hon. GREG DONNELLY: It has been very good evidence.

The CHAIR: A number of questions have been taken on notice. The secretariat will facilitate with you the return of those within 21 days. There may be other questions posed on notice as well.

Mr DAVID SHOEBRIDGE: Sorry, just one more question on notice: icare can only provide support once there has been not only an identifiable dust disease condition but also impairment. Can you provide us on notice what services that means you cannot deliver and what would be needed to deliver those services to somebody who has been identified with a dust disease condition and is a worker but who is not yet impaired—and what the effect of that is?

Mr NAGLE: Yes. We can provide that on notice.

The Hon. NATALIE WARD: I have one question, sorry Dr Colquhoun: Any relation to Des?

Dr COLQUHOUN: Not that I am aware of.

The Hon. GREG DONNELLY: There is a firm of solicitors in the Australian Capital Territory, Colquhoun and Murphy.

Dr COLQUHOUN: That is my uncle.

The Hon. GREG DONNELLY: It is a good firm actually.

The Hon. NATALIE WARD: Great journo in Adelaide, Des.

The CHAIR: Thank you all.

(The witnesses withdrew.)

The Committee adjourned at 16:04.