REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

WORK HEALTH AND SAFETY AMENDMENT (INFORMATION EXCHANGE) BILL 2020

CORRECTED

At Jubilee Room, Parliament House, Sydney, on Thursday 20 August 2020

The Committee met at 11:45.

PRESENT

The Hon. Wes Fang (Chair)

The Hon. Catherine Cusack

The Hon. Greg Donnelly (Deputy Chair)

The Hon. Anthony D'Adam

The Hon. Scott Farlow

The Hon. Trevor Khan

The Hon. Rod Roberts

Mr David Shoebridge

The CHAIR: Welcome to this hearing of the Standing Committee of Law and Justice inquiry into the Work Health and Safety Amendment (Information Exchange) Bill 2020. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land, and pay my respects to Elders past, present and emerging of the Eora nation. I extend that respect to other Aboriginals present. Today we will hear from health professionals, union representatives and government officials.

Before we commence I make some brief comments about the procedure for today's hearing. While Parliament House is closed to the public at this stage, today's hearing is a public hearing and is being broadcast live via the Parliament's website. A transcript of today's evidence will be placed on the Committee's website when it becomes available. Today we will have some participants attending this hearing via videoconference, including the Hon. Catherine Cusack, Mr David Shoebridge and other witnesses. While the technology has facilitated so much of the Committee's work over this pandemic period, it is still new territory for upper House inquiries. In fact, today's hearing will be the first hybrid of the virtual and traditional hearing. As such, I ask for everybody's patience and forbearance through any technical difficulties we may encounter today.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. The Committee has resolved that answers to questions on notice will be returned within 24 hours of the hearing. Witnesses are advised that any messages should be delivered to Committee members through Committee staff. To aid the audibility of the hearing, I remind both Committee members and witnesses to speak into the microphones. Finally, I ask that everyone please turn their mobile phones to silent for the duration of the hearing.

ANDREW ORFANOS, President, Australian Institute of Occupational Hygienists, Inc., before the Committee via videoconference, affirmed and examined

The CHAIR: I welcome our first witness for today, who is appearing via videoconference. Before I go on, I ask those appearing via videoconference that if they lose their internet connection and are disconnected from the hearing to please rejoin the hearing by using the same link as was provided by the Committee secretariat. Mr Orfanos, would you like to give a short opening statement? If so, please keep it to no more than a couple of minutes.

Mr ORFANOS: No problems. Thank you very much. Mr Chairman and honourable members, my name is Andrew Orfanos. I am the current president of the Australian Institute of Occupational Hygienists [AIOH], Inc. Thank you all for the opportunity to appear before you today. Firstly, I commend the Government on the introduction of this bill. The Australian Institute of Occupational Hygienists, Inc. reiterates that silicosis is an entirely preventable disease and agrees that one worker with silicosis is one too many. With this bill, the Government proposes that silicosis will become a scheduled medical condition notifiable to NSW Health, with the goal of this information-sharing to enable NSW Health to assist work health and safety [WHS] regulators to target their ongoing efforts in education, enforcement and compliance at the workplaces where they are most needed.

However, we note that this bill does not quite meet its key objective: that of alerting the work health and safety regulators in a timely manner that will protect workers potentially at risk. While this bill makes positive steps towards the original objective, we must be clear that this bill does not prevent the onset of silicosis. To truly achieve its intent this bill must include a proactive metric that identifies the potential of risk of silicosis, rather than the end point of silicosis. The most common type of silicosis that we see in industry is chronic silicosis, a disease that takes more than 10 years to develop. The idea that sharing notifications of disease diagnosis so that SafeWork NSW can inform proactive steps to stop other workers developing this disease does not work when the disease was triggered by exposure potentially more than 10 years ago. Even if we are talking about accelerated silicosis, we are still talking about 10 years between exposure and the onset of disease. Therefore, as the bill currently stands, by the time that the regulator is notified of a silicosis case, the regulator may not be able to act in a timely manner.

We need to not only protect workers from dying of silicosis quickly but to also protect those who are dying slowly, many of whom are not diagnosed with silicosis until they have left the workplace or retired. In order to measure the effectiveness of disease prevention, rather than disease occurrence, once must assess the level of compliance or noncompliance of the person conducting a business or undertaking [PCBU] with the workplace exposure standard. Specifically, the Australian Institute of Occupational Hygienists recommends that the mandatory reporting of workplace exposure standard exceedances by the PCBU directly to the work health and safety regulator be included in this bill.

The Government is currently moving to reduce the current workplace exposure standard for respirable crystalline silica, and this is also to be commended. An exceedance of the workplace exposure standard tells us that the current controls present in the workplace to reduce worker exposure to respirable crystalline silica are not effective. This is where the work health and safety regulator can be very effective in helping educate PCBUs and enforcing WHS regulations before a worker has contracted silicosis. Examples of mandatory reporting of exposure standard exceedances already exist in other jurisdictions.

For example, I draw the Committee's attention to an excellent system in this very State where this is already performed in the coal industry by the NSW Resources Regulator. Mines must report respirable coal dust exceedances to the NSW Resources Regulator such that an effective action can be taken. In Queensland the Department of Natural Resources, Mines and Energy has a similar requirement for monitoring respirable dust in coal mines, while the Office of Industrial Relations – Workplace Health and Safety Queensland has similar requirements for managing respirable dust hazards in coal-fired power stations. Yet outside of mining there remains no process, no system by which the worksite owner or the PCBU has to report such breaches.

The lack of compliance with work health and safety law, and specifically the lack of compliance with the exposure standard for respirable crystalline silica, has enabled the re-emergence of silicosis. In conclusion, on behalf of the Australian Institute of Occupational Hygienists, the New South Wales workforce and, in particular, those working in the construction industry I implore the Government to include in this bill the mandatory reporting of workplace breaches of the exposure standard. Thank you very much for giving me this opportunity to advocate our position.

The CHAIR: Thank you very much for your opening statement. I will open it up to questions now, beginning with the Hon. Daniel Mookhey.

The Hon. DANIEL MOOKHEY: Thank you, Mr Orfanos. Your suggestion about mandatory reporting of workplace breaches of exposure standards seems excellent, on its face. Do you think that that should be public?

Mr ORFANOS: When you say "public", what do you mean?

The Hon. DANIEL MOOKHEY: The current bill is designed so that effectively all information is disclosed to the regulator, but the bill does not require the regulator to publish any information. What I am asking is, do you think that there should be a duty on the regulator to publish publicly where there have been workplace exposure standard breaches, subject—

Mr ORFANOS: No.

The Hon. DANIEL MOOKHEY: I am sorry?

Mr ORFANOS: No, I do not agree. I do not think that is necessary.

The Hon. DANIEL MOOKHEY: Can you tell us why?

Mr ORFANOS: Because you are looking at something that is a bit more proactive. You are not reporting a disease state—you are not reporting something that someone has actually got silicosis. What you are doing is that an exposure standard exceedance is helping you identify those workplaces where the controls that they have got in place to manage risk of exposure to silica dust may not be effective or they just may not be working currently. By notifying the regulator, they will be able to go into that workplace in a timely manner. That should help support providing advice to identify—especially whether they have got the right controls in place but it may be just that they are not working properly, so they can do something about it. An exceedance of an exposure standard does not equate to them getting the disease, because an exposure standard is an average airborne concentration which the worker can be exposed to five days a week, 50 weeks a year for years and is unlikely to develop long-term adverse health outcomes like silicosis. The fact that someone may have been exposed to a level above that for a day or two or a couple of weeks does not indicate that they will get the disease. I do not think that by publicly [inaudible] that information it would be detrimental to that business.

The Hon. DANIEL MOOKHEY: I do not think we are at cross purposes on that point. However, I guess listening to you further it seems that perhaps there is a presumption that the PCBU will detect its own breach and therefore be required to notify it, whereas evidence that we have received in previous inquiries makes clear that the majority of the manufactured stone sites do not have the equipment to detect workplace exposure standard breaches, and it would be onerous for them to have to buy that equipment because it is very expensive equipment, and that the majority of workplace exposure standard breaches had actually been detected by the regulator. I think from evidence we have previously adduced the overwhelming majority of manufactured stone sites have been breached for exceeding standards.

My only point is that, in the absence of the PCBU having the equipment to detect their own breaches, if we were to install a mandatory reporting regime for workplace exposure standards, basically the regulator is the person who is detecting the breach. They would know themselves, and if it is not public, no-one else would know. It is not really about whether or not there is a risk that a particular worker would develop silicosis. Rather, it is a question as to whether or not there is a safe system at work at that workplace for the purposes of the Work Health and Safety Act 2011, not necessarily the purposes of the medical, individual-level diagnosis that you are talking about. Do you want to respond to that?

Mr ORFANOS: Yes, sure. The WHS regulations require that you obviously have to manage risks, and by doing that you have to be able to quantitate or characterise that risk in the first place. A PCBU has a regulatory requirement to obviously identify potential risks in the workplace and then assess those risks. How they do that, when it comes to respirable silica, is to actually undertake that monitoring. They would not do that themselves; they would engage a specialist external service provider like an occupational hygienist to come in and undertake that monitoring for them, because they have to have obviously done an initial risk assessment to characterise the risk.

In the first event, they have got a requirement to do that monitoring, and then once they have ascertained what levels they are exposed to they have to ensure that they have got the right controls in place. If they have an exceedance when they do that monitoring, they are required to put controls in place to reduce exposure. They would then require that further testing—airborne monitoring—be done to determine whether those new controls are actually effective. Then they need to periodically assess the ongoing effectiveness of those controls. That would require periodically that they undertake that monitoring. It is during that monitoring assessment, whether it is the initial or periodical, that if they did get an exceedance they would have to report that.

The Hon. TREVOR KHAN: Point of order: This is an inquiry into a bill. The long title of the bill is:

> An Act to amend the *Work Health and Safety Act 2011* to authorise the Secretary of the Ministry of Health to provide information to the regulator established by that Act.

The bill itself, unlike many bills that we have for consideration, is pretty amazing because it is actually one page long and it simply deals with an authorisation being given to the Ministry of Health to release information. I actually have some sympathy with what Mr Orfanos is saying with regards to another bill, but it is not this bill. This is a bill that authorises the Ministry of Health. We have got time, but I would like everyone to understand what we have go to deal with here: essentially, whether simply authorising the Ministry of Health to release information is an appropriate mechanism—and I think there is great debate over whether this is the appropriate mechanism. But having disclosure or requiring disclosure of other information by either private entities or even other government departments is not within the leave of this bill.

The CHAIR: I uphold the point of order. I ask all members to address their questions in relation to the bill.

The Hon. DANIEL MOOKHEY: Point of order: Mr Chair, my point of order is designed to allow you to provide some clarity as to how therefore you will interpret the scope of the bill. In addition to the Hon. Trevor Khan's excellent points about the limited nature of this bill, unlike a lot of other bills this bill does not contain objectives. It is not even like we can ask these questions in relation to what the objectives of the bill are and whether or not the objectives are being pursued properly by this bill. I respect the point of order taken by the Hon. Trevor Khan that you just upheld, but I therefore now ask for some clarity as to how you interpret that.

The Hon. TREVOR KHAN: To the point of order: I am not going to take that point of order every time somebody asks a question—I think that is unfair—but I am just putting a little bit of a stake in the sand to say we have got to direct ourselves, to an extent, to what we have got to do.

The CHAIR: What I have done in the time since the Committee's deliberative this morning is look at some of the comments that were made during the debate in the House, where this bill was referred to this Committee. Part of that debate certainly involved a contribution by yourself, Mr Mookhey, and one by Mr Shoebridge. It indicated that the referral to this Committee was, one, for examination of the bill but, two, to look at whether the scope of the bill was appropriate and, potentially, other models—a number of other models were mentioned in that debate. I will take that as my guidance.

The Hon. DANIEL MOOKHEY: Can I submit that in addition to perhaps the comments that were made in the Legislative Council in that debate, which is appropriate and fair, we also interpret the scope of our questioning to include the Minister's second reading speech on the bill?

The CHAIR: Certainly that would be appropriate. If we can contain the scope of questions to the debate that happened in the Legislative Assembly, where the bill was passed, and within the Legislative Council, where the debate saw the bill referred to the Committee, then I think that is entirely—

The Hon. DANIEL MOOKHEY: Maybe just a slight nuance on that position: rather than the debate in the Legislative Assembly or just the second reading speech of the Minister, because that is the Acts interpretations procedure—when any court would interpret the meaning of the bill it would not look at the wider contribution; it would just be looking at the Minister's second reading speech.

The CHAIR: I am also happy to, given that there was concern about whether we needed to look at other jurisdictions.

The Hon. DANIEL MOOKHEY: Not much turns on it, really, other than a precedent for this Committee into the future. I just think that—

The CHAIR: "Not much turns on it" but that.

The Hon. DANIEL MOOKHEY: The lower House debate was not extensive. I think we should just stick to the standard approach that a court would use through the Acts Interpretation Act 1901, which would be to look at—you are right to say the debate that referred it to this inquiry in the Legislative Council and then the second reading speech of the Minister. That is of far more future precedent value than it is, really—

The CHAIR: I think in this instance what we will do is continue the questioning of the witness and then I will seek some clarification from the Clerks as to what is appropriate in this position. Mr Mookhey has the call.

The Hon. DANIEL MOOKHEY: The only other question I had for Mr Orfanos is whether or not his suggestion about making reporting of exposure standard breaches mandatory and on the register—well, mandatory at this point—has been advanced with SafeWork NSW or the Government. If so, what has been their response?

Mr ORFANOS: I have had some informal discussions with State regulators around what they are trying to achieve in their role, and the challenges they have obviously are resourcing and the ability to get out to workplaces and just randomly inspect. If you were the regulator you would want to be able to go out, look at high-risk issues and be able to see that industry is complying with our regs. So anything that could help support them in letting them identify high-risk areas, industries, workplaces, we would then be supportive of that certainly.

I just wanted to say that the reason why the AIOH were interested in responding to this bill is that one of the aims of this bill, as outlined by Mr Kevin Anderson, was that would allow the regulator timely notification so that they can actually get into the workplace and do something about it. That is where our concern is, that if that is one of the main aims of this bill then to really report that using the cases of silicosis, it is too late; we have already got silicosis. So if that is one of the major aims of this bill, then that is why we were suggesting what you would want to be doing is to be looking at a metric that is more proactive and it is actually picking it up, picking up workplaces that may be breaching the regs prior to someone actually developing and being diagnosed with silicosis.

The Hon. ROD ROBERTS: Mr Orfanos, notwithstanding all the stuff that you have just discussed, such as mandatory reporting et cetera, which I believe had some merit, I would like to draw your attention back to the bill that is before us at this point in time. What is your opinion or your thoughts on this bill as it is worded—not what you would like to see and what could be amended and what could be changed in the future, but this exact bill that is before us today? Is it a good initiative? Is it a start? Is it a step in the right direction to start with?

Mr ORFANOS: Absolutely. It is a good start, it is a good initiative, it is a step in the right direction. I totally agree with that.

The Hon. ANTHONY D'ADAM: Further elaborating on your earlier submissions, Mr Orfanos, about mandatory notification, is it your view that there would be utility in workers in that situation—workers who had been exposed—being notified?

Mr ORFANOS: There is already a regulatory requirement under our work health and safety laws, the Federal and the State and Territory ones, to actually notify workers of their exposure. So if they participate in personal monitoring they are required to get their results back and have them explained to them.

The Hon. ANTHONY D'ADAM: Can you provide, on notice, the specific regulatory reference for that requirement?

Mr ORFANOS: I will be able to supply that to you within 24 hours.

The Hon. DANIEL MOOKHEY: Just to clarify that though, are you talking about a worker being notified of their screening result or are you talking them being notified about there being an exposure standard breach?

Mr ORFANOS: When we actually determine what the workers are exposed to, they undertake personal monitoring. We are working out monitoring in their breathing zone, and because that sample represents their potential exposure, there is a requirement for the PCBU to notify that individual of their personal exposure level and be able to explain that and also to indicate to that particular work area that undertake the same activities without communicating specific names of exposures in that area or what they call a similar exposure group.

The Hon. DANIEL MOOKHEY: And this would follow what is effectively the one-off test that would be undertaken by hygienists, amongst others? Is that what you are saying?

Mr ORFANOS: That is correct. When you are trying to assess exposure to silica dust in the workplace, yes.

The Hon. DANIEL MOOKHEY: So what you are saying is after the hygienist or others undertake the exposure standard there is an obligation for the PCBU to notify the worker of the result at that point in time. But what about future and other exposure standard breaches that take place after the test? For example, if SafeWork NSW is to arrive and randomly test and discover that there is a breach, I am not aware of any requirement under any law that says that SafeWork NSW must tell the worker, or the PCBU at that point in time must tell the worker. The evidence that we have previously adduced is that when there have been infringement notices issued by SafeWork NSW to a PCBU for a workplace exposure standard breach, certainly no evidence we have seen says that a worker is told.

Mr ORFANOS: I believe that would be a given, that it is a requirement for that worker. If someone has done monitoring on them to assess their exposure, it is a requirement to report that.

The Hon. DANIEL MOOKHEY: There is a difference, of course, between a test result and a standards breach. Do you accept that?

Mr ORFANOS: Could you clarify that again, sorry?

The Hon. DANIEL MOOKHEY: Of course there is a difference between having a workplace tested and the results of that test being communicated and a breach of the standard being detected. Do you accept that, as in it is possible for a PCBU to be tested to have not breached and for the workers to be told that their workplace is effectively safe, at least for the purpose of exposure standards. Do you agree with that?

Mr ORFANOS: Yes, it should be communicated to them both ways, whether it is good or bad.

The Hon. DANIEL MOOKHEY: My point is this goes back to the question that if first asked you—

The Hon. ANTHONY D'ADAM: Should be or are required to be? Can you just clarify? You said they should be. Are they required to be, either way, or only in an adverse—

Mr ORFANOS: No. PCBU should be providing that worker the results of their monitoring irrespective of whether it is a breach or not.

The Hon. DANIEL MOOKHEY: I accept that point there. But it goes back to the question that I first asked which was really about whether or not if we were to adopt your suggestion about making exposure standard breaches mandatory, whether it would be public or not because there does not seem to be any mechanism under work health and safety laws to notify workers that the PCBU that they work within has infringed.

Mr ORFANOS: When you say "make it public", do you mean make it public to all the workers working at that workplace or do you mean the greater public?

The Hon. DANIEL MOOKHEY: I am open to any submissions you have on that point because a lot turns on it. We are yet to define—obviously we have not defined who the public would be, but you make a good case that it might be the case that you would have to limit the disclosure of this just to the people at the PCBU and not the wider public, but equally there is an argument to say that if you are serious about fostering a safe systems approach then actually the public dimension of it would cause more than anything else a PCBU to improve its standards. I do not think we have settled on that view at this point in time, but do you agree at least that the workers should be told?

Mr ORFANOS: Absolutely, and that is what happens in a lot of industries already where you will have work boards for workers—it happens in the construction and under tunnelling industry at the moment—

The Hon. DANIEL MOOKHEY: It happens in the mining industry.

Mr ORFANOS: Tunnelling, and I say the mining industry as well, but I was talking about the construction industry doing tunnelling for roads and that kind of thing where they have their work boards and they report on their—obviously not with personal names attached to it but they report monitoring that has been done on the workers and whether there has been exposure experienced.

The Hon. DANIEL MOOKHEY: Do you see any harm in effectively adopting the approach that exists in the dust control regime for mining in manufactured stone? Do you see any harm in us insisting on the same standard given that it is clear that the risk seems to be higher in manufactured stone right now than it does in mining?

Mr ORFANOS: That is exactly right. For me, the risk is far greater in the manufactured stone industry because it is not well understood and it is not well controlled, in contrast to mining and construction. So for me that is even more important.

The Hon. DANIEL MOOKHEY: As the Committee deliberates on this bill, you would agree that the dust control regime that is in mining is a good place for us to look, given that the risk, as you just said, for manufactured stone is even higher.

The Hon. TREVOR KHAN: Just putting in a reference to this bill does not make any of your questions relevant.

The Hon. DANIEL MOOKHEY: I am trying, Mr Chair. I am trying.

The Hon. ANTHONY D'ADAM: Mr Khan, are you taking a point of order?

The Hon. DANIEL MOOKHEY: But do you agree that, therefore, when the Committee looks to what could be adequate disclosure regimes and a safe systems approach, the dust control regime that has existed in the mining industry is an adequate place for us to start, given that the risks seem to be higher in manufactured stone than they are in mining?

Mr ORFANOS: Correct.

The CHAIR: The bill looks at what is effectively workplace health and safety diseases and draws out silicosis in particular. Do you think it is appropriate that the scope be limited to what is effectively workplace health and safety diseases or do you think a broader scope would be of benefit—i.e., other diseases in general for registers?

Mr ORFANOS: I think coming from my position as an occupational hygienist and president of the institute, we are looking from a workplace perspective. For me, most certainly we would want to be at least expanding to all workplace hazards that can cause diseases in the workplace. We have got asbestosis, mesothelioma and a number of other long-term health effects associated with lead and other heavy metals. For me, the focus here is obviously action around respirable silica exposure, particularly in the manufactured stone industry, but for us—

The CHAIR: You can see a value in keeping the scope to within what is effectively workplace health and safety diseases. Do you see a value in potentially working towards a national register on this?

Mr ORFANOS: Absolutely. That would be ideal.

The Hon. DANIEL MOOKHEY: I was going to follow up on the excellent line of questioning from the Chair about what should be the scope of what is notifiable. I think you have just said—if I understood what you just said—that you agree it should be occupational diseases, not others. But in New South Wales we have 16 dust diseases that are compensable. We have had that since 1941 and that is all listed in an Act. Do you think that it is appropriate that we perhaps at least make those 16 diseases, which cover asbestosis—as you just mentioned—mesothelioma, pneumoconiosis, a few others I cannot—

The Hon. TREVOR KHAN: Bagassosis, I think, is another one.

The Hon. DANIEL MOOKHEY: Yes. Is there a compelling reason why those 16 should not be notifiable in the same way silicosis is?

Mr ORFANOS: No, they should be.

The Hon. DANIEL MOOKHEY: Do you think, therefore, that—so the regime is clear for the medical profession, so it is clear for icare, who have to handle the claims for those 16 diseases—it would make sense to have effectively the same identical notification requirements under workers compensation law as we do on the prevention side?

The Hon. TREVOR KHAN: I am going to take the point of order again. The question of whether a disease is notifiable does not arise under this bill.

The Hon. DANIEL MOOKHEY: Well maybe I need to rephrase it so I fall within the ambit of what you are talking about.

The Hon. TREVOR KHAN: What this bill does is takes information that the Ministry of Health has received, which may be by way of compulsory notification, and then authorises its release to the regulator. You are going to an earlier phase, which is dealt with separately. Indeed in this occurrence the requirement for notification was dealt with under the Public Health Act independent of this bill.

The Hon. DANIEL MOOKHEY: I agree, but on your point of order though, if you accept the principle that the Chair has adopted, which is that we are allowed to sort of canvass matters that are in the second reading debate and also flagged in the inquiry or at least in the reference debate in the Legislative Council—the scope as the Chair himself has identified, the scope of what is notifiable, was canvassed in both. I agree with you they do not fall within the literal reading of the bill, but they would fall within the wider scope that you have interpreted, Mr Chair.

The Hon. TREVOR KHAN: Having read the speech, I think the Minister had great, great latitude or was given great latitude by the Speaker because his speech is—

The Hon. GREG DONNELLY: As Ministers are wont to do.

The Hon. TREVOR KHAN: —a long journey before he actually gets to do anything with the bill. So if that is the interpretation we are going to get, we are—

The CHAIR: In deference to the witness and noting that we are almost out of time and need to prepare ourselves for another videoconference after this, what I might do is draw the line of questioning to a close there. Thank you, Mr Orfanos, for appearing today. Thank you very much.

Mr ORFANOS: You are welcome. Thank you very much.

(The witness withdrew.)

(Short adjournment)

RITA MALLIA, President of the Construction, Forestry, Maritime, Mining and Energy Union, before the Committee via videoconference, affirmed and examined

The CHAIR: Would you like to start by making a short opening statement? If so, please keep it to no more than a couple of minutes.

Ms MALLIA: I will make just some opening kind of supplementary comments to our submission. Thank you for this opportunity. Our submissions on the information exchange bill are very straightforward and speak for themselves. In summary we welcome any legislative change that then facilitates the role of the regulator and, in particular, in setting up a proper functioning dust register, as well as ensuring that risks, especially those caused by deadly dusts like asbestos and silica, are exposed early to prevent injury and death, and also ensure that those affected are identified, treated, cared for and compensated. This is very important when illnesses can manifest themselves many years after exposure, although we are seeing shorter latency periods both for asbestos-related and silica-related diseases.

Having said this though, we do share some of the privacy concerns with the bill. It is very broadly drafted. We also do not think the memorandum of understanding is sufficient to necessarily protect the privacy rights that might be overridden here, particularly with respect to individuals' medical information, which is a particularly important sort of confidential information, or sufficient to really authorise the trammelling of those rights. Some of the things that we think probably could be better dealt with in regulation to address may be to better clarify what the powers of the regulator are that would be exercised that would justify the use of the powers, the circumstances in which the exchange would occur, and the type of information that is being exchanged. Is it global medical information or are we talking about specific medical information pertaining to individuals? If that is the case, is it treating information or is it medico-legal? It seems to be that there is lack of clarity about the nature of the medical information. The circumstances in which consent might be required by a patient—or is there a process by which consent is first sought before these powers are exercised overriding consent requirements? Also, what would be open to individuals if they want to challenge the exercise of these? But in principle we appreciate what is being tried to be achieved here.

We also raised a number of other issues around silica dust in particular in recent times and previously around asbestos. We have made submissions to this body around the need to do more in terms of addressing particularly the exposure to silica and that is that we are still pushing for a more comprehensive case-finding study to try to come to grips with the extent of this. My understanding is that WorkCover seems to be focused on just work in the factories where these products are manufactured, whereas we have raised on a number of occasions that there are a swarm of other workers who are exposed to silica, whom we should try to get a handle on and then try to help regulate the space in those areas. Yes, they are more difficult, but in fact in some ways those people are more exposed. I want to also be supportive in this space to move towards the lower exposure standards of 0.02.

To underline an example of where this problem goes beyond just what happens in the factories where Caesarstone or manufactured stone products are made, just this week we had a concrete driller come to the union. He is a member of ours. He has worked for the one company for 17 years. He has been diagnosed sadly with both silicosis and asbestosis, so it is a double whammy for him. He is under the care of a number of eminent thoracic doctors. He was diagnosed a couple of years ago. Luckily, he is still working, but strangely enough his medicals were paid for by the employer—I suppose that is a good thing. They gave him a mask, which was fitted once. It was meant to be reviewed 12 monthly. This did not occur. When they had incurred that he was diagnosed, there was a delay in the diagnosis. The company had secured a Government contract. Everyone went for a mandatory medical and that abnormality was identified in this particular individual's lungs. The medical centre wrote to the employer and said "Look, this employee should follow-up." The employer actually hung onto that for 10 months before handing it to the employee. It beggars belief how this could have occurred. Then they tried to send him to various numbers of doctors to try to disprove that this was a work-related condition.

Finally, they have done the right thing and given him some WorkCover forms or some insurance forms. Now he has got to try to work through what his rights and entitlements might be in workers compensation. It just seems to us that focusing on just manufactured stone—and we totally agree that it needs to be addressed—is a narrower view of what we should be looking at when it comes to the exposure, particularly of silica, and that a properly funded, broader case-finding study would probably help reveal some of the sorts of examples like the one I have just taken you through. That is probably all that we want to say in opening. Our submission is a very straightforward one. We just hope that the Committee can look further into it and progress some of the recommendations that we have made in the past, particularly with exposure with the hazardous silica. I will leave it at that.

The CHAIR: Thank you very much for your opening statement. I will now open up to questions.

The Hon. DANIEL MOOKHEY: Can I take you to the bill? The bill authorises the Secretary of the Ministry of Health to provide information to the regulator established by the Work Health and Safety Act 2011 and the Minister's second reading speech makes clear that that is effectively to pursue the objectives of the Work Health and Safety Act 2011. Under the Work Health and Safety Act 2011, it is the case, is it not, that it is not just the regulator who does enforcement?

Ms MALLIA: It is principally the regulator. Since the harmonised Act, there is a small scope for other bodies like the union to prosecute—if that is what you are asking me—less serious offences, but it is principally the regulator, being SafeWork.

The Hon. DANIEL MOOKHEY: Of course, and no-one disputes that the regulator has the prime responsibility and power to—but it is the case that there are other people with rights under that regime, including the right to prosecute and including the right to receive information. Is that correct?

Ms MALLIA: Yes.

The Hon. DANIEL MOOKHEY: Is there a reason why notifications of silicosis—of course redacted to protect the privacy of an individual—should not be provided to the persons under the Work Health and Safety Act who have the power to improve workplace health safety standards?

Ms MALLIA: I do not see any reason as long as people's privacy concerns are addressed. That could be very useful for health and safety representatives and very useful for permit holders. So, yes, I think that whatever you can do to highlight where there are problems and then those who are responsible under the Act to ensure that the Act's obligations are met, I do not see any particular problem with that.

The Hon. DANIEL MOOKHEY: The Work Health and Safety Act certainly has amongst its objectives the pursuit of health and safety of workplaces, but it adopts a safe-systems-of-work approach as well and, under that safe-systems-of-work approach, it creates a duty on everybody to improve safety. Is that correct?

Ms MALLIA: Yes, from PCBUs right through to workers.

The Hon. DANIEL MOOKHEY: Is it not the case that you would be able to better pursue a safe system of work if people did have that information, particularly at the health and safety representative [HSR] level and at the PCBU level, where hopefully there are cooperative arrangements in place and the information that can be learnt can actually make much more rapid progress than the regulator having to take enforcement action? Do you agree with that?

Ms MALLIA: Yes, I think so, because obviously prevention is going to be very important in this space, because once somebody has got the disease it is largely a death sentence or a very debilitating situation. I think any information that you can arm people like PCBUs, HSRs and members of consultative committees to address these workplace issues when they arise—not 30 years or 25 years after the event—is crucial for trying to turn around some of the statistics.

The Hon. DANIEL MOOKHEY: An enforcement-only approach after a breach takes place—when a worker already has the disease—is certainly at times necessary, but it is also resource intensive, it is expensive, it is punitive and it punishes the business and the workers. Should we not pursue an objective here to actually help both the PCBU and the workers, and equip them with the information they need to actually pursue improvements in safety standards through cooperative relations, not just enforcement? Would you agree?

Ms MALLIA: I agree with that, especially for these situations where the problems do not manifest themselves until sometimes decades afterwards. There is really very little enforcement action you can take that is meaningful. Yes, you can get a fine. People may be able to sue somebody under common law. They have got that sort of an injury but, yes, at the end of the day, if there is more immediate information available, then it should be made available to the affected workplace or more broadly to the industry to take more proactive action to prevent people being injured or made sick.

The Hon. DANIEL MOOKHEY: I read the bill and the bill says that the secretaries can provide information to the regulator. It does not say that the secretary must and, to be fair, the Government's submission sets out a reason why they do not think there should be a compulsion on the secretary of Health to disclose. The bill does not actually say what the regulator needs to do. It does not say whether the regulator has to do anything—be it investigate, prosecute or, for that matter, publish—whereas other regimes, particularly the one in Queensland, make it clear that the regulator has to respond. Can you explain whether or not you think that there is merit for us, in this bill, perhaps not requiring the regulator to actually act on the information that they receive and, as an adjunct, the extent to which that is covered by a memorandum of understanding? Have you seen the memorandum

of understanding? Have you been consulted on the memorandum of understanding? Do you know anything about the memorandum of understanding?

Ms MALLIA: No, we have not been consulted on anything. We were not even consulted on the bill so, no, we have not seen any details there. We have got some reservations about relying on a memorandum of understanding to deal with some of these important issues. But to your first point, yes, we would be very supportive of a model similar to that in Queensland where, if an issue arises and it has been brought to Health's attention under these powers or however they may eventually look to the regulator, then, yes, we would expect that there would be mandatory requirements to do something about it, whether it is enforcement action, education, updating the register—when we get one—and those kinds of things. I think it has got to be a two-way street. Otherwise what is the point?

The Hon. ANTHONY D'ADAM: You have raised concerns about this memorandum of understanding. What mechanism do you think the Committee might be able to recommend in terms of how we might be able to bring more transparency to the arrangements that are negotiated between Health and SafeWork?

Ms MALLIA: I think they should be at least by regulation. That way they are transparent, they are before the Parliament and people get an opportunity to see them, comment on them, disallow them if they are inappropriate, and they are also not subject to change easily, because memorandums of understanding at the end of the day can be varied; variations could be made without people ever being knowledgeable of them. They may be good variations or they may not be so good, so I think that for something as important as this—to deal with the privacy issues, but also to go to some of the comments that Mr Mookhey spoke to—a regulation would be more appropriate.

The Hon. ANTHONY D'ADAM: The bill is deliberately broad in terms of the type of information that can be shared. I think in the Government's submission they say that initially it is limited to silicosis. Do you think that there should be more specificity in terms of the type of information that is provided, and also whether other occupational lung diseases should be the subject of the information exchange between Health and SafeWork?

Ms MALLIA: I think there should be more clarity around that. It is about being proactive; it is about making people safe. But remember, you have also got the State being the insurer, so to speak, so we would not want a situation where information would have to be mandatorily released on behalf of an individual that would then be used to kill their case, for example. I am only thinking about that now as you have asked me these questions. I think more clarity is really important, but where this is about improving safety, then broadening it to other, particularly dust-related diseases, is really important. I think it goes both ways. I would provide some clarity about it so there is not an abuse of the power, but also where it is about proactively pursuing safety objectives, you might want to broaden it beyond silica dust.

The Hon. ROD ROBERTS: I do not wish to put words in your mouth in any way so please pull me up if I am wrong. The impression I get from the submission prepared by Mr Greenfield and your verbal evidence this morning is that, as a concept, this bill is perhaps a good thing. Certainly I hear your concerns in relation to privacy; I, too, harbour concerns in relation to people's privacy. Am I correct in saying—and again stop me if I am wrong—that if the memorandum of understanding part was controlled by regulation, this bill itself is probably, as I say, a good initiative, a first step in the right direction? It is not the rolled gold package that we would all want. First of all, can I actually just ask you to comment on that? Is that appropriate?

Ms MALLIA: Yes, I think in principle the concept is sound. It is about getting information. If there is some difficulty in getting medical information that helps the regulator ensure that safety is being addressed onsite, particularly in these particular diseases, then, yes, we do not have an objection to the principle, as long as those issues that we raised around privacy, clarity and the way in which this information will be used is clear. We do not have a problem with the concept itself and, yes, I would say it is one step in achieving a result. It is not everything that we would like to see done in this space.

The Hon. ROD ROBERTS: We have heard over all the hearings that we have held that a national register is probably the way that everybody wishes to go. Do you see this bill as being an obstruction to that register perhaps or just again a step in that process?

Ms MALLIA: I do not think it is an obstruction to the extent that we have different States and they all run their own race when it comes to these compensation and safety issues, even though we have a harmonised safety system largely. Ultimately it would be better for workers, employers and regulators to have a national register. But I do not see this as necessarily an impediment to that.

The Hon. DANIEL MOOKHEY: I might follow up on that. Those are good questions. Ms Mallia, the concept of a national register, which is something that this Committee has previously supported and recommended

as well in our first review of the dust scheme—has there been any substantial progress towards the establishment of a national register that you are aware of?

Ms MALLIA: If there is, I am not aware of it. I am a State branch official so I may not be entirely tied into what is happening nationally. But I am not aware that there has been any progress in terms of a national register.

The Hon. DANIEL MOOKHEY: Of course, that is what caused Queensland to commence theirs and, to be fair to the New South Wales Government, caused the New South Wales Government to now embrace a New South Wales one. Do you agree that the establishment of what we will call a State-based notification regime, which might become a register, is inconsistent with the objective of obtaining a national register?

Ms MALLIA: Look, if we have not got a national one—and there is not a prospect of getting a national one—then at least having something in New South Wales where these things are notified, recorded and data is collected that is useful, I do not think it would be. We should not stop pushing for a national register, but there may be other dynamics at play that make that unachievable; I do not know. We do need to be able to identify people who are suffering from these diseases, who have been exposed to them, where they have been exposed to, and it needs to be quicker than 30 years after somebody ends up with an asbestosis or ends up with a silicosis.

The Hon. DANIEL MOOKHEY: Perhaps I might continue asking questions. Ms Mallia, can I ask you about this case-finding study concept that you advance?

Ms MALLIA: Yes.

The Hon. DANIEL MOOKHEY: Can you explain what the benefits of a case-finding study in conjunction with a notification regime could present New South Wales and any downsides of a case-finding study in partnership with a notification regime?

Ms MALLIA: I have not really turned my mind to it but I do not think there are any downsides. What was clear from an experience in Queensland, from memory, was actually doing some research with the medical profession to identify the extent of the health problem associated particularly with silica dust. It really did put that issue in the minds of legislators. We have got a more robust system up there to deal with it. We would like that to be the same for New South Wales. It is good to know what the extent of the problem is and we know that SafeWork is focused on the companies and the workplaces where manufactured stone products in particular are manufactured. We have raised the issues with the installers on site, and others who might be exposed down the line, as being important. For us, I do not see that the two are inconsistent. At the end of the day, we need the best possible information. We need to know where the risks are and then that will inform the legislators and others, like ourselves, as to the type of response you want to give. I do not really see it as an inconsistent—it is a step in the process, as somebody else said earlier.

The Hon. DANIEL MOOKHEY: But the case-finding study the Construction, Forestry, Maritime, Mining And Energy Union [CFMMEU] has been pushing for a while now—it is the case, is it not, that it would identify other classes of workers who may have been exposed prior to the point of them being, at this point, even diagnosed or even know to get themselves diagnosed? Is that not the case that would be a substantive benefit?

Ms MALLIA: That is what we are trying to achieve. We are trying to really shine a light on where the risks are and take preventative measures to ensure that people do not become sick, or if people have become sick, that they have become aware that this might be a work-related situation, even though they may not make that connection.

The Hon. DANIEL MOOKHEY: In the absence of a case-finding study, are you aware of any other initiative from SafeWork NSW to go back in time and effectively identify other classes of people who may well have acquired the disease at work but do not yet know it?

Ms MALLIA: I am not aware—not to say that they necessarily have not done something. But I, to this day, am not aware that they have done much beyond what was done, which was the original auditing and maybe some follow-up with some of those companies that we were dealing with originally when this issue flared up.

The Hon. DANIEL MOOKHEY: I think this Committee has previously supported your call for a case-finding study in some of our earlier reports, but my memory might be wrong there. What are the reasons why SafeWork NSW or others in the task force resist this proposition? Have you had any recent conversations with them about this?

Ms MALLIA: We have not. My understanding is it is just difficult. Yes, it is easy to focus on the production because it is an address; it is a corporation; it is an entity. You have to follow that product to different sites. It would require probably extra resources and a little bit more time and it is a little bit more of a complicated

exercise. So, I suspect it just comes down to it being a bit more difficult than just isolating the investigation to fixed premises.

The Hon. DANIEL MOOKHEY: As a part of this notification regime that is being proposed I cannot see how there would be any requirement of the regulator, after receiving notification, to either investigate, but also to go back in time and identify other classes of people who may well have been exposed. Of course you expect the regulator, having received a notification, would investigate and they would deal with the issue at the time that it is presented—which is contemporaneous, you would hope. I cannot see any requirement for them to have to go back in time, identify other workers who may have been present or, for that matter—

The CHAIR: I am going to draw a point of order on that.

The Hon. DANIEL MOOKHEY: You are the Chair, so you do not have to draw a point of order; you can just tell me to not do it. Use your power.

The CHAIR: Well, I do not like to abuse my power. I am going to say that that question is verging on being out of order, given that the bill, as we said, deals with information exchange, not the requirements of the regulators.

The Hon. DANIEL MOOKHEY: Let me rephrase, then, just so it is within order. To the extent to which you have any knowledge of that memorandum of understanding, do you know whether or not that memorandum of understanding would require SafeWork NSW to go back in time and investigate and identify other classes of other people who may well have been exposed?

Ms MALLIA: I have not seen the memorandum of understanding so I cannot comment on that positively or negatively. I do not know the answer to that question.

The CHAIR: Would you be supportive of a national register being adopted?

Ms MALLIA: Yes. I think we have gone on record of that in the past.

The CHAIR: Yes. The requirement for a national register would in some way require the exchange of information between health authorities and the occupational health and safety regulators in each of the States in order for that to occur. Would that be a reasonable assumption?

Ms MALLIA: If they could not get the information any other way and there was some deficiency in the information that was being provided then that would definitely be a way in which you could get the information.

The CHAIR: In order for New South Wales to achieve that it requires the sharing of information from Health to the regulator of SafeWork, which is what the bill addresses. Is it a fair assumption to say that you would be largely supportive of what the bill achieves in that respect?

Ms MALLIA: Yes, subject to the concerns we have raised—but, yes.

The CHAIR: Would you like to see similar information sharing adopted by all States in order to facilitate that Federal list of dust diseases, particularly silicosis, being brought into operation?

Ms MALLIA: It is probably not really for me to say what the other States should do. They might already have these processes in place, or ones that are better, or a system by which the information is provided without the need. I do not really like to comment on other States. We do support a national register. We support information being collected around the people who are suffering these sorts of diseases—where they got their exposure—and hopefully activity by regulators and others to address it. If there was a need that those States and the advocates in those States identified then I suppose they could look to New South Wales as a model.

The CHAIR: Would you be comfortable with only workplace health and safety information being captured by a regulator, or would you like to see a wider array of medical conditions being captured by a SafeWork regulator?

Ms MALLIA: I do not know why you would need wider—to me, it should be related to safety. It should be related to the diseases that are attributed to conditions at work. I do not know what the utility would be to broaden that to cancer or things that are not work-related, if you know what I mean. I suppose it would just depend on what ended up in any sort of list. You are dealing with people's private medical information, so you need to balance that up as well. But certainly the focus here is to address safety concerns and risks, and try and prevent people from dying of workplace diseases. You would probably be focusing your mind on those diseases.

The CHAIR: Thank you very much for that. Unless anybody else has any further questions of the witness, I will draw this section of the hearing to a close. I do not believe there were any questions taken on notice. Thank you very much for your appearance.

(The witness withdrew.)

(Luncheon adjournment)

DEBORAH YATES, Respiratory Medicine Physician, Royal Australasian College of Physicians, before the Committee via videoconference, sworn and examined

GRAEME EDWARDS, Occupational and Environmental Medicine Physician, Royal Australasian College of Physicians, before the Committee via videoconference, sworn and examined

The CHAIR: I would like to invite the witnesses to make a short opening statement if they desire. Please keep it to no more than a couple of minutes. I will start with Associate Professor Yates.

Associate Professor YATES: I do not have one but I would be happy to respond to direct questions.

The CHAIR: That is fine. You do not have to provide an opening statement. We just invite you in case you do. Dr Edwards, do you have an opening statement?

Dr EDWARDS: Thank you. Yes, please. The objects of the legislation in work health and safety for New South Wales is to promote the provision of advice, information, education and training to the various stakeholders to ensure compliance, to enable scrutiny and review, and provide a framework for continuing improvement. Each of these objectives fundamentally requires pooled data analysis. And so, the college supports the initiatives to enable the interconnectedness and linkaging between the intelligence within the government agencies and the associated entities when it comes to the work health and safety of workers of New South Wales.

Fundamentally we have seen historically a failure of those cross-linkages and data sharing, to the detriment of workers in New South Wales. We have seen cases where an individual can be diagnosed by a physician undertaking the service delivery within the icare dust diseases protocols, identifying an individual with silicosis, advising that individual, but then being hampered in the ability to transmit that information either to treating practitioners or to regulatory authorities. We welcome the opportunity that has been created by the amendment legislation to facilitate cross-linkaging and more effective communication between the agencies in New South Wales. Thank you.

The Hon. DANIEL MOOKHEY: Firstly, thank you to both professors and doctors for your appearance today and for the valuable contributions you have made in other inquiries as well. Can I start with the bill and its second read, which I am assuming you are familiar with the detail of? It establishes or effectively allows for information to be exchanged between the Department of Health and the regulator—in this case, SafeWork NSW—about silicosis. I wanted to just start by asking firstly: Is it the case often that when silicosis is diagnosed it is either diagnosed in conjunction with other occupational lung diseases or after other occupational lung diseases? Can it be?

Associate Professor YATES: I am happy to respond to that, if that would help. For the Committee's information, they are probably already aware that silicosis is one of many diseases which can occur after silica exposure. The presence of silicosis itself, which is the disease that is accompanied by silicotic nodules, is not necessary for the diagnosis of many of the other diseases associated with silica exposure. These include lung cancer; chronic obstructive pulmonary disease, which encompasses the entities of both emphysema and chronic bronchitis; interstitial pulmonary fibrosis; an increased risk of tuberculosis and other mycobacterial diseases, as well as an increased risk of fungal infection. There is a large number of diseases that are not included under the category of silicosis, as you point out. If one is simply notifying silicosis itself then one would probably miss a large proportion of the others. This is something which may eventually be a bit of a problem because currently these are under-reported already.

The Hon. DANIEL MOOKHEY: To the extent to which the requirement to notify, which is now enforced in New South Wales by virtue of the health Act but only applies to silicosis—is there an argument to say that we should at least be thinking about widening this to the other occupational diseases that can arise from silica exposure?

Associate Professor YATES: I would certainly agree with that. I would probably also suggest that it should be definitely considered for the future as to how to include other occupational diseases as well as those associated with silica exposure, some of which are probably not recognised under current legislation.

Dr EDWARDS: I would endorse the comments made by Associate Professor Yates and add that silicosis is but one of the disease entities associated with exposure to silica dust. The learnings that we have developed in the last 18 months associated with the engineered stone sector is that the diagnostic criteria for silicosis is less than adequate for the early recognition of those people who have been exposed and are at risk of an irreversible disease process for which we have next to no treatment, other than lung transplant in the final stages. Focusing on silicosis undervalues and underestimates the magnitude of the problem that is created by the silica dust hazard. Consequently the National Dust Disease Taskforce is looking at the wider spectrum and, as

you will see in the legislative framework in Queensland, it goes beyond just the silica dust diseases in its reporting requirements. That leads then into the critical difference between the concepts of a disease registry and a register. At the moment the legislative framework creates a disease register, which requires the diagnosis of the disease and a [inaudible] level of reporting that does not give us the intelligence to understand either the pathophysiology or the aetiology of the disease so that we can then intervene more effectively, as early as practical, to assist the wellbeing of these workers who are being exposed even today.

The Hon. TREVOR KHAN: Dr Edwards, I am not being critical of any of the evidence you have given up to this point and I am sure I probably will not be critical of any evidence you give at all. But are you aware that the legislation that we are considering—and I do not use this word apologetically. The bill itself that we are considering merely authorises the provision of information by the Ministry of Health essentially to work health and safety, if I describe it that way—that it is unlimited as to what that information may be.

Dr EDWARDS: The short answer is yes. As I said in my opening statement, as a college we endorse the principle of that information transfer. What we are also aiming to highlight in giving evidence today is that there are some fundamental limitations to the practical processes that we have been privy to in the information available to date.

The Hon. TREVOR KHAN: Sure. Do I take it that your concern relates to the public health orders that have to date been made under the Public Health Act—that is, under, I think, section 51 (2)?

Dr EDWARDS: Sorry. That is outside my understanding at the moment.

The Hon. TREVOR KHAN: Well, it seems to me that this is at least a two-stage process that the development of a register has involved. Perhaps it is going to be a three-stage process, depending upon what the feds do. The first stage, at least in New South Wales, has been for the Minister for Health and Medical Research—or I would have thought the Minister for Health—to make an order under section 51 of the Public Health Act adding silicosis as a scheduled medical condition under schedule 1 of the Public Health Act. That is stage one.

Dr EDWARDS: Yes.

The Hon. TREVOR KHAN: I take it that your view would be—and I think this also applies with Associate Professor Yates—that the Minister should widen the criteria to include other conditions apart from silicosis. Is that what you would say?

Dr EDWARDS: Ultimately, yes, when we have the infrastructure available to support the cross-linkaging of the information that we are talking about. At this point in time we can use the identification of silicosis per se—the diagnosable condition—as a sentinel tag to inform an understanding of the disease burden in our community and the nature of the hazards that the workers are being exposed to. Using silicosis as a sentinel indicator of the workplace environment is in and of itself a major step forward. But ultimately if we are to be able to identify emerging diseases, just as we have had to experience with the advent of COVID-19, we need an infrastructure necessary to be able to pick these conditions up as soon as practicable so that both regulators and industry can respond accordingly.

The Hon. TREVOR KHAN: I accept that. I am going to, for the purposes of the other members of the Committee, page 13 of the SafeWork NSW submission—fourth paragraph down. SafeWork NSW in its submission asserts—I will not put it any higher because we have not had them yet. I quote:

> In July 2019, the Commonwealth Health Minister established the National Dust Diseases Taskforce, and before the end of 2019 the National Taskforce made a recommendation for a National Dust Diseases Registry which initially focuses on accelerated silicosis.

Do I take it that you would see that as a step forward, at least in terms of dealing with accelerated silicosis being the focus?

Dr EDWARDS: While I am not at liberty to speak on behalf of the task force, obviously I was part of the task force that put out the interim report. In that regard the interpretation that you just read out is a subtly but importantly constrained version of the recommendation of the task force. The critical element there is that while we are focusing on silicosis, not just accelerated silicosis, in the first instance, the parameters which we are considering is the broader context of the dust diseases as opposed to just silicosis. But you are correct in understanding that this is a stepping stone process. In the first instance, while there is a critical awareness around the concepts of accelerated silicosis and the learnings that we are getting from that particular disease entity, it is very much a work in progress.

Mr DAVID SHOEBRIDGE: To either of the witnesses—and thank you again for your engagement with the Committee. Both of you, thank you for your early sentinel advice to us and others about this emerging disease. I am genuinely grateful for the work you do and I think that public health response has been important in

saving lives, so I want that on record. If this is to be effective in terms of getting information together so that we eventually get a national register, what else is needed so that we have an effective national register of silicosis and other diseases caused by manufactured stone? What else is needed?

Dr EDWARDS: Associate Professor Yates, do you want to make a comment?

Associate Professor YATES: Yes, certainly. In order to get an effective national registry I would say what is needed is an excellent coordination between all the different State bodies and also coordination with the relevant medical colleges. We are united and ready to assist with that. That is an overall view. On an individual state basis there are a number of things which would assist. I think the first thing to do is to ensure that the data that is actually collected by NSW Health encompasses the full spectrum of the different diseases associated with silica exposure. Because if you start by just limiting to silicosis itself—we have already made the point that this actually disallows a lot of the diseases including, for example, the many diseases that are associated with silicosis. I have to be very basic and say that once something is enshrined in any sort of system and there is a fault which exists and it does not include everything, then it tends to carry on forever. What we need to do is get it right at the very start.

I would suggest that New South Wales liaises very carefully with the task force. I would also liaise with the groups in Queensland and in Victoria who have already done the case finding studies to ensure that the information is uniform and that it is common across the different States so that we as a country can go together forward to try and prevent the full spectrum of these diseases, rather than just some of them. I think the other thing that is really important is to ensure that this is adequately resourced in terms of liaison between the different sectors. The problem in New South Wales has not been lack of willingness. It has been the fact that the dust diseases board and the medical authority have not have the required legislative link made, which is by feeding back into the community and through the various regulatory bodies the number of cases with potential for problems to occur.

I think that needs to be thought of early on and included in the piece so that, for example, when data is submitted to NSW Health, not only is it correct in the type of information that needs to go there, but there is a very clear feedback mechanism so that the people who are on the front line—in other words, us—can assist significantly. That is where the changes are going to be effective. We need to have a system which encompasses not only the regulators—who do excellent work with prevention—but also the healthcare providers so that we basically complete the circle rather than having a circle which is interrupted in places. All the different sectors—the Thoracic Society, the Royal Australasian College of Physicians, the Faculty of Occupational and Environmental Medicine and the Royal Australian College of General Practitioners, as well. Everybody is very keen to work as constructively as we can with all the different agencies in order to ensure that it is right from the very beginning. The devil is in the details. Once these things are legislated they are often there for a long time.

Dr EDWARDS: Mr Shoebridge, what I wanted to highlight is the importance of terminology. You used the concept of the register as opposed to—we talk in terms of a registry. I need to reinforce repeatedly that a registry is the serial surveillance of that at-risk cohort of workers, independent of their employment status, so that we can develop our understanding of the disease, its clinical course and the criteria that we need to apply in order to make the early diagnosis so that we do not get into trouble because of either a failure to notify because of uncertainty or inappropriate notification because inappropriately qualified people are making the notification that then confuses the data set that we are looking at. If we establish the registry properly then at the individual level we will attain that early warning information that enables us to intervene when it is most likely going to be beneficial.

Mr DAVID SHOEBRIDGE: You both have given a lot of information in those answers. Can I just break them down a little bit? Is that okay?

Dr EDWARDS: Certainly.

Mr DAVID SHOEBRIDGE: I am not being critical. I appreciate it. Professor, you said that the profession is ready, willing and able to engage. Were you consulted at all in the establishment of these measures?

Associate Professor YATES: No, I am afraid we were not.

Dr EDWARDS: The short answer is no, we were not. As a consequence the notification form for the diagnosis of silica dust related diseases including silicosis in New South Wales is, from my perspective, not fit for purpose.

Mr DAVID SHOEBRIDGE: Okay. So, the form is wrong. As I understand it, you think there should be an extended list of notifiable diseases that then find their way to a registry. Would either of you be in a position within the next 24 hours to give us the most appropriate list? Maybe you could tell us [inaudible], for example.

The Hon. DANIEL MOOKHEY: Point of order: I think that Associate Professor Yates was going to make a contribution. I think Mr Shoebridge may have missed transmission of the video.

The CHAIR: Correct. We might invite Associate Professor Yates to make a contribution if she was going to. If and when she does, I will just address some points after that.

Associate Professor YATES: Thank you. I suppose I am happy to say that if you would like a list of diseases, that would be easily obtainable in the next 24 hours because this is very well-described within the scientific literature. The second point that I would like to highlight is the fact that the proposed system does not have any specifics with regard to how the diagnosis was made. This is actually a very, very important point because we do not want to have erroneous diagnoses recorded, because it makes it very difficult all around. There are various mechanisms whereby a diagnosis could be verified. I think that is certainly something which one should be thinking about and be leaning towards.

That probably would be something done within the Department of Health because it is a system which is already up and running with regard to establishing the diagnosis of lung cancer and other interstitial lung diseases. So, a system that hopefully could be used to ensure that the information was passed accurately to a central registry would be [inaudible]. That is a mechanism which is already available within all the States. There is an item number for it already. The provisos are there; it is merely a matter of ensuring that the mechanisms are sufficiently robust to ensure that the diseases being notified are appropriate.

The CHAIR: I just wanted to address a couple of things. Earlier in this hearing we had some discussion about the bill itself and what was covered by this inquiry. A decision was made that the bill itself is quite short. It is about half a page and refers really only to the exchange of information from NSW Health to the regulator in order to maintain a register for silicosis. We have adopted the second reading speech from the Legislative Assembly and also the debate around referring this bill to this Committee that occurred in the Legislative Council. That is what we are taking as the scope of what we will be looking at today.

The Hon. DANIEL MOOKHEY: Dr Edwards, you flagged that you felt that the notification form was not fit for purpose. I do not know whether you share that view too, Associate Professor Yates. I was just going to invite Dr Edwards to set out why you think that is the case and what you think should cover. The second question I was just going to ask in respect to this particular form—but also to take up the suggestion that we would widen what would be notifiable to cover the other dust diseases. As practitioners and as members of the board of the Thoracic Society, would that be excessively onerous on the medical profession to have to comply?

Dr EDWARDS: When I say the document that has been published is not fit for purpose, the purpose I am referring to is for the operation of a registry as opposed to a register. A register only has the functionality to undertake a very high level of pooled data analysis to give an indication of the burden of disease and maybe some very crude trend analyses. It is relatively insensitive in identifying timely cluster identification and it is insensitive to identify an understanding of the pathophysiology and the aetiology of the disease. While the form is designed and is consistent with a register it is inconsistent with a registry, which is the object of the game, if you like, in terms of being able to pool this information, learn from it and respond appropriately for the health and wellbeing of workers in New South Wales.

Associate Professor YATES: I was merely wanting to respond to the issue about it being onerous for the medical profession. The answer is: It will be onerous. We are trying to do this in the midst of the COVID epidemic and so many other things. This is one of the reasons that I would recommend that it is referred to a specific multidisciplinary meeting. What happens with that is that the onus of notification is on the multidisciplinary teams and committee, rather than an individual clinician. That also has the benefit of allowing a consensus diagnosis in a very difficult situation. These diseases are complicated, especially in their early stages, and most physicians will shy away from making a diagnosis. Because of that they will need the multidisciplinary discussion and support of their colleagues in order to come to a consensus. So, although it is onerous, if one implemented it with the appropriate support systems you would actually get a system which was not only suitable but also practical. I think both of those issues are very, very important because the last thing you want is something which is not functional.

Mr DAVID SHOEBRIDGE: This bill has a very limited scope, which allows for the information to be shared from Health to the regulator, notwithstanding the privacy Act. If we are going to have a national register is that going to have to be shared from the regulator to the Commonwealth [inaudible]? Is there any jurisdiction you know that has actually provided that next step and allowed for the sharing from the regulator to the Commonwealth register? Is that something you have looked at in your national task force, for example, Dr Edwards?

Dr EDWARDS: It is an issue under active consideration and obviously we have the limitations associated with data linkage into these within jurisdictions as well as across jurisdictions. The complexity of that information transfer is one of the matters that the task force is continuing to explore. And so, what we are seeing in this particular bill is a step in the right direction. It is by no means the solution to the problem that we are currently facing.

Mr DAVID SHOEBRIDGE: Do you think, therefore, there would be some merit in putting an additional facilitative provision that allowed for the provision of the material from the New South Wales regulator to work health and safety Australia—I forget its exact title—for the purposes of providing for a national dust diseases and silica register? Should we put that architecture in now?

Associate Professor YATES: Yes.

Dr EDWARDS: Certainly if the parliamentary draftsman can come up with a set of words that facilitates that, that would be beneficial. What that set of words will be and how it needs to be crafted is one of those challenges that we have yet to come up with a solution to.

The CHAIR: I have a couple of final points to both the witnesses—given the last testimony that you have just given with regard to provisions in order to support a national registry, would a delay in setting up the New South Wales register by not implementing what we have in front of us now be of disadvantage or advantage to adopt those changes, given that we do not have a national registry in place yet?

Dr EDWARDS: The disadvantages to the individuals in New South Wales by delaying would be material. While it would not benefit in the greater scheme of things to wait for the establishment of a national disease registry, the pragmatic need right now in New South Wales is for there to be effective communication between departments of health and work health and safety. I would not counsel delaying the passage of this bill.

The CHAIR: Thank you. I can take from that that we are best to get through what is on the table now and then look to work with the Commonwealth and the other States to formalise agreements around the Federal registry at a later date.

Dr EDWARDS: Absolutely. The important piece of the puzzle is to acknowledge that what is in the bill at the moment is not the ultimate answer. It is a step in the right direction.

The CHAIR: Thank you very much. If we could have a response to the question on notice within 24 hours—otherwise I would like to thank you both for attending the hearing today. We will pause for a short moment while we reconfigure the room for the witnesses to appear next. Thank you.

(The witnesses withdrew.)

(Short adjournment)

PETRINA CASEY, Director, Health Policy, Prevention and Supervision, State Insurance Regulatory Authority, affirmed and examined

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

ROSE WEBB, Deputy Secretary, Better Regulation Division, Department of Customer Service, affirmed and examined

MEAGAN McCOOL, Director, Chemicals, Explosives and Safety Auditing, SafeWork NSW, Better Regulation Division, Department of Customer Service, affirmed and examined

RICHARD BROOME, Acting Executive Director, Health Protection NSW, affirmed and examined

The CHAIR: I now welcome our next witnesses to the hearing today. Would any or all witnesses wish to make an opening statement?

Dr BROOME: I have a brief one but I think Ms Webb might start.

Ms WEBB: I have one and I do not think any of my other colleagues have one. Thank you for the opportunity to appear before the Committee to provide further information on how the information-sharing power contained in this bill will help improve outcomes for New South Wales workers. In particular, the bill will assist SafeWork NSW to address the re-emergence of silicosis as an occupational disease. Any notification received since the requirement to notify of a silicosis diagnosis commenced on 1 July will be able to be provided to SafeWork NSW once this bill is enacted. SafeWork NSW will then be able to use the information provided by NSW Health to conduct an investigation and take appropriate action to protect workers from future exposure to hazardous levels of silica dust. It is important to emphasise that we will not be able to begin such an investigation until we have this bill passed and the information provided—until the time we do not have complete information about silicosis cases. That is what SafeWork NSW needs to be able to target its educational compliance and enforcement action at workplaces that are not working safely with silica and to protect workers from contracting this preventable disease.

I note that SafeWork NSW provided a submission to this inquiry that contains information about our role in addressing silicosis, the Government's silica strategy and how the information-sharing power in this Work Health and Safety Amendment (Information Exchange) Bill will work. There are four key elements to the Government's silica strategy. Two components have already been implemented: the amendment of the work health and safety regulation to ban uncontrolled dry cutting of manufactured stone; and the lowering of the workplace exposure standard for crystallised silica to 0.05 milligrams per cubic metre. These measures came into effect on 1 July 2020. Inspectors are now able to issue on-the-spot fines for noncompliance with the ban on dry cutting. Work on a third component of the Government's plan to address the emergence of silicosis recently reached its halfway point, and that is the delivery of SafeWork's 2017-2022 hazardous chemicals strategy. Crystalline silica is a top-two priority chemical under the hazardous chemicals strategy, which has four action areas: education and awareness, compliance, research, and legislation.

SafeWork has conducted wide-reaching campaigns across a variety of media, and delivered materials in Arabic, Mandarin, Hindi and Vietnamese. To deliver the compliance component of its hazardous chemicals strategy it has conducted extensive and thorough compliance and enforcement activities, with a focus to date on the manufactured stone industry. This bill is the key to the success of the fourth component of the silica strategy: ensuring that SafeWork is informed of all diagnosis of silicosis in New South Wales. The Minister for Health has put in place the first steps of the silicosis information-sharing framework, and as of 1 July it is a medical condition notifiable by all medical practitioners in New South Wales to NSW Health.

The objective of this bill is to enable NSW Health to share the information it receives from notifications of a diagnosis of silicosis with SafeWork. Importantly, as I have mentioned before, once that bill is law, SafeWork will be able to lawfully use that information to perform its functions under the Work Health and Safety Act. This may include investigating the worker's former and current workplaces and undertaking enforcement action where appropriate. Effectively, the body of information generated through the notifications establishes a register of silicosis diagnosis. Both Health and SafeWork NSW will be able to draw on the information to perform their functions. It is a repository of information, which can be drawn on in the event that a national dust diseases registry is established.

Subject to the passage of this bill, SafeWork and NSW Health are in the process of finalising a memorandum of understanding that will set out how the agencies will share, use and store information about silicosis. The memorandum of understanding [MOU] is being developed in consultation with the Information and Privacy Commission to ensure that workers' personal information is treated appropriately. The information-

sharing power in this bill is sufficiently broad to enable NSW Health to share any information it holds with the work health and safety regulators if the Health secretary considers it necessary to enable those regulators to perform their functions. As I have mentioned, the bill is one component of a broader package of reforms to address the spike in silicosis in New South Wales. It will put work health and safety regulators in a stronger position to respond to the current increase in silicosis cases, and it creates a flexible information-sharing framework, which we can use to address the health challenges in workplaces in the future.

The CHAIR: Thank you very much, Ms Webb.

Dr BROOME: I have a few things to add. NSW Health takes its privacy obligations very seriously. NSW Health obtains a range of sensitive health information under the Public Health Act and also information related to the administration of the healthcare system. But before disclosing any personal information, NSW Health considers whether the disclosure is, first of all, legally permissible, and whether it is also in the public interest to release that information. Some information obtained by NSW Health may indicate potential health and safety issues in workplaces, and in these cases it may be appropriate to share information with the regulator or enforcement agency so that they can consider what actions are necessary to protect the health of the public and staff members.

In relation to silicosis in particular, there is a lack of clarity at the moment about particularly whether identifying information that NSW Health receives under the Public Health Act can be disclosed to SafeWork NSW, and whether SafeWork NSW can lawfully use that information to exercise its functions under the Work Health and Safety Act. I just want to point out that this is in contrast to the Food Act, which allows for information sharing between New South Wales and the Food Authority, and the provisions in this bill are very similar to the provisions of those in the Food Act at the moment.

The CHAIR: If there are no further opening statements, I am going to open up for questioning.

The Hon. DANIEL MOOKHEY: Thank you, Mr Chair, and thank you, Ms Webb, Ms McCool, Dr Broome and Ms Donnelly for your appearance today. I also thank SafeWork NSW for your submission, which was very helpful in bringing us up to date as to what has developed since our inquiry. I do want to start, though, with what you were describing. Firstly, have you heard the other witnesses earlier today?

Ms WEBB: I have not had the chance to hear them but a summary has been provided to me. I think Ms McCool heard some.

The Hon. DANIEL MOOKHEY: So you will at least be able to be responsive to some of what they have said.

The Hon. SCOTT FARLOW: Just on that point, I know you were outside during the last session. Did you get any of that?

Ms WEBB: We had the phone on, so we were trying.

The Hon. DANIEL MOOKHEY: I appreciate the four-pronged part of the strategy, of which this is a component. I think the Chair has interpreted the scope of our questioning to be effectively the bill and the Minister's second reading speech as well, just as preliminary, so you understand where the questions are coming from. I wanted to focus firstly on the memorandum of understanding aspect of it. It seems that the tension—well, not the tension, but at least a question that the Committee is exploring is whether or not the memorandum of understanding is comprehensive. The ancillary question is whether or not it should be legislated or whether a memorandum of understanding is the right mechanism to obtain or to effectively reflect the agreement you have with Health. There seems to be some inconsistency between your statement and the submission in that the submission says the MOU will be signed as soon as the bill is passed, but your statement implies that there is still further work to do on the design.

The Hon. TREVOR KHAN: Is that right?

The Hon. DANIEL MOOKHEY: It does say that, yes. There are two sections of it: there is a back section with questions and answers, and there is a front section. To be fair, the submission is slightly inconsistent as well on both points. So I just wanted you to clarify: Is the MOU complete?

Ms WEBB: It is being drafted. I think we are waiting to see what the form of the legislation is, because we note that Parliament has not finished with the legislation yet. We thought it was prudent to wait until legislation was actually passed before we set it into concrete, but the drafting is being progressed.

The Hon. DANIEL MOOKHEY: But there is a draft available. It invites a chicken-and-egg-style question. Can we see the draft?

Ms WEBB: We can take that away with us. We were definitely proposing to publish the final form. I will just get some advice from our legal team and our privacy advisers about that but I cannot see a problem with a draft. I will have a look into that.

The Hon. DANIEL MOOKHEY: Sure. In the absence of that, is it possible that you could describe the scope of the MOU, or at least the content of the MOU and what systems it proposes, given that your submission effectively—

The Hon. TREVOR KHAN: I am sorry to interrupt, Mr Mookhey, but because this is essentially a bills inquiry, have we got the capacity for taking questions on notice? I think it is important that we get that resolved.

The Hon. DANIEL MOOKHEY: I believe, Mr Khan, other witnesses have and it is within 24 hours.

The CHAIR: Yes, we have. It is a 24-hour time frame. Ms Webb has nominated to seek advice as to whether she can and she will provide that advice within 24 hours.

The Hon. TREVOR KHAN: Could it be a two-phase thing? Can you work out whether you can, and if you can, can you provide it?

Ms WEBB: Yes, I will take that.

The Hon. DANIEL MOOKHEY: In lieu of that, can you take us into some detail as to what the scope of the MOU is and what systems the MOU proposes? Specifically this argument that you advance in your submission that this effectively achieves what other jurisdictions have achieved through a register—can you explain to us how that is the case?

Ms WEBB: The MOU will be between us and Health. The doctors notifying information to Health have a form in which they notify certain information. The discretion will then lie with Health as to what information it provides to us.

The Hon. DANIEL MOOKHEY: Dr Broome, has Health decided what information it will provide the regulator?

Dr BROOME: We would be proposing to provide information about the person and the workplace, or any other workplaces, and the nature of the diagnosis. We have already developed a notification form to go with the notification system, which I think is available on our website.

The Hon. DANIEL MOOKHEY: Yes, we have it here.

Dr BROOME: And we would be proposing to provide all that information to SafeWork NSW.

Ms WEBB: Going to your point about the register, SafeWork NSW is able to combine that information that it will get from Health under the MOU, other information that we get from icare under current arrangements, and then the information that Ms McCool's team finds during the course of its inquiries.

The Hon. DANIEL MOOKHEY: I can only presume this is your intelligence-based approach that you are describing. I was going to follow up on some questions to Dr Broome, but Mr Khan, I do not want to interrupt.

The Hon. TREVOR KHAN: It relates to—you have got the form.

The Hon. DANIEL MOOKHEY: I do. I can table the form.

The Hon. TREVOR KHAN: I am not being critical in any way. Are you saying all the information on that form would be provided?

Dr BROOME: I believe so. Sorry, I do not have the form in front of me, but the details of the notifier, the person who has got the condition—

The Hon. TREVOR KHAN: I think it is fairly important that we work out—if you have the form and you are saying all the information will be provided, but if there is information on that form that you cannot provide, could you within 24 hours nominate those specific areas of information that will not be provided?

Dr BROOME: Yes, and I will just point out one thing. There is a section here that says, "Any other comments about the diagnosis," so there is some free-text stuff. I think we would retain discretion about it, because obviously that could include anything.

The Hon. TREVOR KHAN: That seems fair.

Dr BROOME: There are a lot of checkboxes, and we would be proposing to transmit all the stuff that is in checkboxes or relevant to the work health and safety regulators.

Ms McCOOL: How we got here is important for context. Under clause 376 of the Work Health and Safety Regulation, a PCBU or an employer—whenever there is an adverse health report—and that is any chemical, any condition, occupational asthma, silicosis, all the conditions—it is notifiable by the employer. That is what is not happening.

The Hon. DANIEL MOOKHEY: Notifiable to whom?

Ms McCOOL: To us. We are not receiving those and that is why we are here. In terms of that, a report has already been provided to the worker and a report has already been provided to the employer. What we are doing here under the health Act is adding another duty to the doctor to provide a copy of that report to NSW Health. It is already information that we would have if it was notified under 376. It is no more than what we would receive if the PCBU gave it to us. We now have a penalty under that clause that if you fail to provide that to us—and hopefully if we can get this information from Health—there is an on-the-spot fine of over $3,000 for not notifying us in the first place. That is how the system is supposed to work, but obviously there are issues in relation to an employer telling us that a person has a disease as a result of their work.

The Hon. TREVOR KHAN: Ms McCool, one of the problems was—and it has been the subject of former inquiries. Because of the delay in onset, requiring an employer to advise when the person may have no continuing contact with the employer was the problem that led to the recommendations from this very Committee. You say the employer should provide it. If the employee has moved on and is no longer employed, then you cannot enforce an obligation on the employer if they do not know, hence why we are here. I am not being critical, but the information is not necessarily available from the employer. That is why you are doing precisely what you are doing now. Isn't that right, Ms Webb?

Ms WEBB: I think that would be right. There are a range of circumstances that it could pertain to. A particular person might have moved interstate or whatever or something like that.

The Hon. TREVOR KHAN: Changed jobs—they may now be a removalist or something.

The Hon. DANIEL MOOKHEY: I did have follow-up questions for Dr Broome about how the MOU will work. But just before I do that, the only other aspect of Ms McCool's answer that also invites a question is: When you said that the worker is told about their diagnosis—and presumably that comes from their doctor because they presumably went and saw the doctor—you also said that the employer is told. How is the employer told after a worker is diagnosed with silicosis, and under what law are they required to be told?

Ms McCOOL: The worker is generally sent for screening. That is, I guess, what you were talking about. Some go of their own volition to go and get screened.

The Hon. DANIEL MOOKHEY: So you are talking about the icare bus program, basically. That is the most common form of screening.

Ms McCOOL: Yes.

The Hon. DANIEL MOOKHEY: And after a worker participates in that screening program, who tells the employer? Does icare tell the employer? Does the worker tell the employer?

Ms McCOOL: Correct, yes. Essentially the information is provided that a person has an adverse condition as the result of their work, and on that report that they receive it says that you are required under clause 376 to notify the regulator. That is not occurring, so this is closing the loop.

The Hon. DANIEL MOOKHEY: So the icare bus exchanges that information. The icare bus provides the information to the employer, and you say that the employer has to tell you.

Ms McCOOL: Correct, under clause 376.

The Hon. DANIEL MOOKHEY: I accept that, but that does not address the question that Mr Khan just raised, which is that it applies to only those workers who have a continuing employment relationship with the employer for as long as that person has that relationship. Do you agree with that?

Ms McCOOL: Correct.

The Hon. ANTHONY D'ADAM: Can I clarify icare's obligation? Will they be captured by this? Will they be a body that will notify Health under this arrangement?

Dr BROOME: The obligation is on the physician, on the doctor. If a doctor under icare makes a diagnosis, then they would be required to notify.

The Hon. DANIEL MOOKHEY: When you say a doctor under icare, do you mean a doctor directly employed by icare?

Dr BROOME: It is any doctor who makes a diagnosis. If a doctor is employed or contracted—whatever it might be—by icare and they make the diagnosis, they are obliged to respond.

The Hon. DANIEL MOOKHEY: But does icare have a separate legal obligation to report?

Dr BROOME: No, it is the same obligation. But the obligation is on the doctor; it is not on icare itself.

The Hon. ANTHONY D'ADAM: So this will be a new obligation imposed on icare. At the moment, as I understand it—

The Hon. TREVOR KHAN: No.

The Hon. SCOTT FARLOW: No, it is not imposed on icare; it is imposed on the doctor.

The Hon. ANTHONY D'ADAM: On the doctor, sorry. Under the current arrangement, though, SafeWork obtains the information from icare under a—

Ms WEBB: Under a notice.

The Hon. DANIEL MOOKHEY: We have gone through this before: You issue notices to them periodically and they tell you. Is it still the intention that that system would continue with icare, even when this regime is in place?

Ms McCOOL: The notification is now redirected. Essentially all notifications by all doctors in New South Wales, including icare, will go to NSW Health. It takes out the need for us to now serve a notice if the information can be passed across through this bill. Whether you go to the hospital, whether you go to a GP, whether you go to a respiratory physician or you go through screening through icare, if a diagnosis is made of silicosis, it is notifiable under the Public Health Act.

The Hon. ANTHONY D'ADAM: On the same line, just about the mechanics of the notification: is it a one-off obligation to notify or is there some ongoing obligation to notify if, say, there is an initial diagnosis but then the diagnosis changes?

Dr BROOME: It is an obligation to notify a new diagnosis. One issue that may arise is that we might get—given that it is a chronic disease—multiple notifications of the same person, but that is not an unusual thing in notification systems. But the aim is to get new diagnoses—the first diagnosis, I suppose—of silicosis notified to us. That is what the intention is of the notification process.

The Hon. DANIEL MOOKHEY: Can I follow up on the MOU to get some further detail on the MOU system that you just described? You have said that there is a requirement to notify and then you will pass it on to the regulator. Has a time frame been decided in which Health has to pass that information on to the regulator?

Dr BROOME: I do not know if this is in the MOU at the moment, but that time frame would be based on how the regulator is going to manage the notifications. We would want to do it in a way that was efficient.

The Hon. DANIEL MOOKHEY: Have you decided yet how long you will have? How long will it take for Health to transmit the information to the regulator?

Dr BROOME: I might have to take that one on notice. I think it has been discussed, but I do not—

The Hon. DANIEL MOOKHEY: Does the regulator under this MOU have the power to request further information of Health?

Ms WEBB: An MOU would not usually give us powers as such, but it might have some arrangement where we can make some further inquiries and questions. But we would have that relationship with Health in any case.

The Hon. DANIEL MOOKHEY: But you agree that you would not have the power to request the further information.

Ms WEBB: Just via an MOU, no. That would not give us power.

The Hon. DANIEL MOOKHEY: Would the regulator have the ability to have direct contact with, and seek information directly from, the medical practitioner? Will the regulator have the ability to legally compel a medical practitioner to hand information directly to the regulator, without NSW Health?

Ms McCOOL: That happens now. We can serve a notice to provide further information. They can dispute or appeal that but essentially it is generally how we request further information, whether it is through a medical practitioner or whether it is through the business. As part of that process we conduct interviews with other workers as well as with the impacted worker, and do an inspection of that site. So there are lots of different ways

that we can validate the information. In terms of getting more information, if it is not clear on the condition, it is not clear on—

The Hon. DANIEL MOOKHEY: You can. You have the existing powers.

Ms McCOOL: We can serve a notice on the doctor.

The Hon. DANIEL MOOKHEY: Do they apply to NSW Health? Do you have the power to issue a notice to produce on NSW Health?

Ms McCOOL: We certainly do.

The Hon. DANIEL MOOKHEY: What does the MOU require the regulator to do once you receive the information?

Ms WEBB: I think we will have the normal obligations of compliance with requirements of the law. The MOU itself probably will not go into a lot of detail about what SafeWork will do, because it will just use it for its purposes as required in the particular case.

Ms McCOOL: As with any workplace notification, it has to be actioned, no matter what side. To give you an idea, we have gone back three years on the notifications on icare and they have been investigated to a point of making a decision whether to further proceed. We have completed the first two years of those and we are in that third year, which was the last financial year. Any notifications of a disease have been followed up. The ones from icare, though—and as I said, when the bill is passed, we can then start looking at any new notification from any doctor and do the same process. At the moment what we have followed up is what we have served by notice to icare.

Mr DAVID SHOEBRIDGE: I do not understand why you chose not to include an express provision requiring icare to provide the information they get following lung screenings more broadly, and why you chose the path of simply going to the doctors and, therefore, requiring you to have this ongoing iteration of notices to icare. What was the thinking behind that?

Ms McCOOL: This will actually remove the notice to icare. We will not need to serve any more notices and icare will be required to notify Health as per all other doctors. It will be one central notification that, if this bill is passed, can then be shared with us. There will be no need for the regulator to do that service of notice unless there is information missing and we require more information.

Mr DAVID SHOEBRIDGE: But if you had had the benefit of hearing just the last two witnesses, who are two highly esteemed medical practitioners in this field—they made it quite clear that simply providing information about silicosis will be very inadequate. It will be missing an array of indicators and occupational diseases that are necessary to have an effective register, to understand the impact of something like manufactured stone. Surely some of that information would have come to you previously from your notices to icare, or have they always just been limited to silicosis?

Ms McCOOL: The ones that I have looked at were only silicosis.

The Hon. DANIEL MOOKHEY: What were the reasons to limit this to just silicosis, given that there are other occupational lung diseases—firstly, that under the dust compensation legislation there are 16 of them? But equally, as we have just heard from the previous witnesses, the doctors, silicosis is one disease that is obtained by exposure to silica dust. There are many others. Silicosis is a more developed disease. There are others that are earlier in the spectrum that they view should be notified too, to foster both a preventative and a better treatment-style approach. What is the reason why we limit it to just silicosis?

Ms WEBB: The actual bill itself is not confined to silicosis. It is the decision by the Minister for Health to—

The Hon. DANIEL MOOKHEY: Only make that one notifiable.

Ms WEBB: So Dr Broome might be able to—

The Hon. DANIEL MOOKHEY: Sure, Health might be able to answer that question.

Ms WEBB: It is a decision for Health as to what they make notifiable.

Mr DAVID SHOEBRIDGE: There are chronic pulmonary disorders and an array of other diseases that are caused by the inhalation of silica dust and that have already been proven to be caused by the inhalation of silica dust from manufactured stone. I have been trying to find out why there is a very narrow focus on silicosis, when in fact even the national task force talks about a national dust diseases register, never a silicosis register. I am mystified by the rationale behind this.

The Hon. DANIEL MOOKHEY: My only adjunct to that question effectively, Mr Chair, was: Did the regulator request Health to make the other diseases notifiable?

Ms WEBB: Our focus is on a silicosis strategy at the moment, so for the moment we have concentrated on that, but ultimately it will be a decision for the health Minister as to what he makes notifiable.

Dr BROOME: I think that is right, in theory, at least. Any condition can be made notifiable, but as far as I understand it, the issue at hand has always been silicosis. I am not aware of evidence that these other dust diseases are currently an issue in New South Wales. I know that they have gone down a particular approach in Queensland, which I assume is related to the issues that they have in Queensland. But we have, as I understand it at least, a different regulatory approach, for example, to coalmines than they had in Queensland. The key thing is about prevention. For example, for most of these diseases, we know the dusts that cause them and the aim is to prevent people's exposure to those dusts. That, I think, is the focus of how we prevent these diseases.

The CHAIR: I just wanted to confirm one thing with Dr Broome. The bill as it stands at the moment, which is on the table, is an information exchange bill between Health and the regulator. Will that allow in the future for exchange of other conditions, should that be indicated as a requirement?

Dr BROOME: In principle. As I mentioned at the beginning, one thing that is very important to NSW Health is that we collect all sorts of information under the Public Health Act and for other reasons. Having our own discretion about what information we release and to whom is really extremely important because ultimately our goal is to improve and protect people's health. There are circumstances where we certainly would not be keen to provide personal health information because it might be counterproductive to addressing an issue.

The CHAIR: But on this issue, if you were directed to provide the regulator with requirements of another disease type, would you facilitate that and would that be facilitated through this legislation?

Dr BROOME: When you say "directed"—I think we are very happy to enter into discussions to address public health issues and figure out the best way to manage those public health issues, which may or may not involve notification of diseases. But I think we would be cautious about direction, because as I say, there can be some very sensitive issues in our data that we need to be cautious of.

The CHAIR: I appreciate that. What I am saying is that policymakers, whether it be this Government or future governments, may direct Health to provide information to the regulator. The information exchange in the bill, the actual mechanism of the bill, will allow that to occur, correct?

Dr BROOME: Yes.

Mr DAVID SHOEBRIDGE: Was there any additional information Health wanted to give?

The Hon. DANIEL MOOKHEY: I have some follow-up questions.

The CHAIR: Mr Shoebridge has some questions but was allowing Dr Broome to follow up.

Dr BROOME: No, I have finished.

Mr DAVID SHOEBRIDGE: This is a question to the whole of the panel. The answer to whether or not there should be an expanded list of dust diseases that are notifiable keeps getting bounced to Health as though it is a Health-only response. But Safe Work Australia, the peak body for safe work regulators across the country, lists in its own material a series of diseases that are caused when a worker is exposed to, and breathes in, silica dust. It includes chronic bronchitis, emphysema, acute silicosis, accelerated silicosis, chronic silicosis, lung cancer, kidney damage and scleroderma. Given that that is the information provided by Safe Work Australia, why is SafeWork NSW not insisting on the gathering of the data for the array of diseases caused by the inhalation of silica dust? Why are you not pressing for a comprehensive body of information because many of those diseases will be preliminary indicators and allow you to get in and save people before they get silicosis?

Ms WEBB: I can only repeat my previous answer. Silicosis is the immediate, pressing, large problem in New South Wales and this strategy is focusing on that while we can but we have made sure that the legislation has a framework to enable an expansion should be required in the future. I think things like lung cancer—

Mr DAVID SHOEBRIDGE: Of course if you get—

The CHAIR: Point of order: I know there is a delay with Webex so I am allowing some leniency to Mr Shoebridge because of that, but Ms Webb is attempting to provide an answer and, given the procedural fairness requirements, Mr Shoebridge should allow her to give her answer in full before asking any further follow-up questions.

Ms WEBB: I was just going to make a short additional comment in relation to lung cancer, specifically about it being quite complicated to determine whether that has a workplace feature to it or not because there are a range of factors that can cause that. That is an example of where notification of that disease might not actually benefit the whole process anyway but, in any case, the focus for the moment is silicosis. That has been the focus for the inquiries in both New South Wales and nationally and it is the focus of the Minister's current strategy to improve workplace health.

The Hon. DANIEL MOOKHEY: When you say "inquiries", do you mean the inquiries by this Committee?

Ms WEBB: Yes.

The Hon. DANIEL MOOKHEY: But are you aware that this Committee has recommended the establishment of the dust diseases register, not a silicosis-only register?

Ms WEBB: Yes.

Mr DAVID SHOEBRIDGE: And it is the same with the national task force.

Ms WEBB: Although it does say to focus on silicosis in the first instance in the national task force recommendation.

The Hon. DANIEL MOOKHEY: Either of which you wish to go. What we are trying to get out is this choice to limit it to silicosis. Was that the policy advice given by the regulator or is that a decision that has been made by the Minister? If it is a decision that had been made by the Minister, you are a public servant and we accept that. That is what I am trying to get at. Is it your advice to the Minister to limit it to this?

Ms WEBB: It is a silicosis strategy, so yes. Our advice was that the first step should be to focus on silicosis but make the legislation sufficiently wide and set up the frameworks so that if in future the diseases became prominent in New South Wales we might have an opportunity to take action in relation to them.

The CHAIR: Ms Donnelly is looking to make a contribution.

Ms DONNELLY: I will. It is not directly an answer to Mr Shoebridge's question but it is related to the dust diseases reviews. We took an action from the 2018 review for the State Insurance Regulatory Authority [SIRA] to liaise with the Thoracic Society of Australia and New Zealand and identify a list of potential other diseases that could be considered for addition to schedule 1 to the Workers Compensation (Dust Diseases) Act. We have done that and sought for an evidence review from Professor Driscoll, who has also done similar work for Safe Work Australia previously, and to also bring up to date some of the previous work that he had done for deemed diseases. I might pass to Dr Casey in a minute, but we have a draft report from Dr Driscoll and he is close to finalising that. We will share that with the Thoracic Society and also undertake some actuarial analysis in our piece of work but that will add to the evidence. We are in a national context of what is happening with Safe Work Australia, what is happening with heads of workers compensation and the national task force continuing to actively look and understand where there may be other diseases that require further strategies, including from our action, whether or not there needs to be an updated schedule in terms of the diseases that people receive coverage from the Dust Diseases Authority.

The Hon. DANIEL MOOKHEY: So I can appropriately understand the context of your answer, that was in response to a recommendation that the Committee made to update the list of what is compensable in the Workers Compensation Act, so that is set in. Knowing that that has not really effectively been updated since the 1940s—

Ms DONNELLY: It is covering both, Mr Mookhey. The recommendation from the Committee was about schedule 1 to the Workers Compensation (Dust Diseases) Act. There is also a deemed diseases facility within the Workers Compensation Act and we are—

The Hon. DANIEL MOOKHEY: And we asked SIRA to look into this.

Ms DONNELLY: We are looking into both of those.

The Hon. DANIEL MOOKHEY: So you were explaining in response to that recommendation of this Committee.

Ms DONNELLY: That is right. Just to let you know, there is another process of bringing forward evidence about what might be important areas for increased coverage or increased focus.

Dr CASEY: I am not sure there is a lot more that I can add—

The Hon. TREVOR KHAN: Give it a go.

Dr CASEY: I think that Dr Driscoll's updated evidence review will be instructive as part of whatever we do in New South Wales as well as a national initiative. So the national task force, while it is looking at a national dust diseases register, it did nominate silicosis as an initial focus. This added piece of work will be able to be added to both New South Wales as well as the national context.

The Hon. DANIEL MOOKHEY: Is it possible on notice to get a copy of either the draft report or whatever information you can provide as to what the list of those diseases are?

Ms DONNELLY: Yes, we will take it on notice. I understand we are going for a 24-hour time frame. We will get you what we can.

The CHAIR: It is fair to adopt what I am going to call the Hon. Trevor Khan position: in the first instance that you seek to provide the document if you can. If you can provide the document within 24 hours it would be most appreciated.

Ms DONNELLY: Okay. What I can also do is that we thought time might be short and we have prepared a short handout with a bit of an update on actions we have taken from previous reviews.

The CHAIR: Thank you very much. I will have that passed to the Committee secretariat to have copies made and circulated to members. I want to confirm with SafeWork and perhaps SIRA, there has been quite a lot of talk about a national register. Has anybody—for example, the Minister—spoken to you about any approaches we might take in New South Wales to try to facilitate a national register?

Ms WEBB: Yes, the Minister is definitely supportive of facilitating the national register. We have engaged with Safe Work Australia and the task force to try to move that on.

The CHAIR: So the Minister is positive towards it and is actively trying to see us adopt that?

Ms WEBB: And we are, as I mentioned my opening statement, making sure that anything we do at the moment in terms of gathering the information we might get from Health is ready to be able to be provided to a national register should that be formed.

The Hon. DANIEL MOOKHEY: Do we have a date for the establishment of a national register yet?

Ms McCOOL: The recommendations and interim finding—the final report as I understand is not due until the end of this year. It does say that it would be an initial focus on silicosis but also accelerated silicosis in manufactured stone. The notifications that Health is receiving are acute, chronic and accelerated. It is not just for manufactured stone; it is any diagnosis of silicosis, whether that is tunnelling, foundries or construction. We are set up in terms of that it is all forms of silicosis, not just manufactured stone, but the initial finding is only in that space of accelerated in, as they call it, "engineered stone".

The Hon. DANIEL MOOKHEY: Just so the Committee and I can properly appreciate that, Ms McCool, are you saying that the national register at this point is only looking at accelerated silicosis?

Ms McCOOL: Yes. It says under recommendation 2 that it is a staged approach and it is accelerated silicosis in the engineered stone industry.

The Hon. DANIEL MOOKHEY: A staged approach of how many stages? Is it undecided at this point in time?

Ms McCOOL: That has not been identified to us.

The CHAIR: Undetermined?

Ms McCOOL: In terms of what Ms Webb is talking about is that essentially we are setting up a framework where we could stage as well.

The Hon. DANIEL MOOKHEY: Am I right to say that what you have said is that the end of this year there will be a decision to establish a national register for accelerated silicosis?

Ms McCOOL: It will be a final report and that would need to be considered.

The Hon. DANIEL MOOKHEY: To Safe Work Australia ?

Ms McCOOL: It is under the Federal Minister for Health, so essentially that is who the project has been run by. Obviously, we are a contributor to that and there as a Safe Work Australia member on that task force, but essentially that would be then open to what the framework is for that to be considered knowing that you have part (a) in the health world under the public health Acts and then you have part (b) under—

The Hon. DANIEL MOOKHEY: So which body is receiving this report, Dr Broome? Do you know if it is being received in the Health cluster Federally?

Dr BROOME: Federally, yes. I believe it is. It was a committee under the COAG Health Council. Obviously, I do not quite know where that is now, but it is under the Department of Health.

The Hon. DANIEL MOOKHEY: I do not want to go too far down into the rather complicated arrangements that are Commonwealth-State relations, particularly now whilst they are in flux. Do we have a date for the establishment of a national register?

Dr BROOME: I am not aware at this stage of a date for it.

The Hon. DANIEL MOOKHEY: And do we yet have a decision from any Commonwealth body or interstate body to establish one?

Dr BROOME: I am not aware of a decision to establish one but the recommendations are clear that that is what—

The Hon. DANIEL MOOKHEY: That is the trajectory we are on?

Dr BROOME: Yes.

The Hon. DANIEL MOOKHEY: But we are not yet decided. Is that fair?

Dr BROOME: That is probably a fair representation

The Hon. TREVOR KHAN: I apologise for having gone out of the room. I have become fairly popular today for some strange reason.

The CHAIR: I do not know why.

The Hon. TREVOR KHAN: Some people listen to my advice so that makes a bit of a difference. Let me start on the basis that you may have covered it already. I take you to page 13 of the SafeWork NSW submission and what I will call the penultimate paragraph that begins with "Subject to the passage of this Bill". What I want to try to get to is that it seems that this whole section reviews the dust diseases scheme, talks about the establishment of the passing of this bill, the obtaining of the information and the possibility of there being a national register, however broad or not it is. Let us suppose that the national register, like so many other things in the area of Federal-State relations, remains a bit of a pipedream. What do you do? What is the intention?

Ms WEBB: We will continue in New South Wales now as my colleagues have mentioned. We have closed the gap that was existing in our knowledge of this disease in New South Wales because we were not being notified. We will be able to now use the combination of the information that we receive from Health and then the information that we obtain directly from employers and the information that we find out for the course of our inquiries to have a good understanding of the incidence of silicosis in New South Wales, and to bring to bear other data about the environment and the working conditions in which people are operating and do some analysis based on a broader spectrum of information that we will have. We will not have a national picture but we will have a good New South Wales picture.

The Hon. TREVOR KHAN: I am not being critical in any way. It seems to be an extraordinary step in the right direction. I am an old man so I think in concrete terms. In terms of where we go forward with this information—that is sort of an esoteric concept—will that information become more broadly available to the public only every time you come before a Law and Justice Committee to get grilled and abused, or is there some other concept of what you are going to do with this information? I accept the noble thing of using it to stop bad workplaces, but is it to be a repository of information that will be available to a broader public assuming that the Feds do not do anything about it?

Ms WEBB: I would have thought so. It obviously would be very helpful to the medical practitioners to understand this data and other researchers. I think it would also be an important part of our communication and information strategy more generally as part of the whole silicosis strategy. Ms McCool might want to answer.

The Hon. DANIEL MOOKHEY: Does the MOU cover any publication or publishing requirements? Does it require or give you the authority to publish this information to whatever public you to find should have it?

Ms WEBB: I do not think we would be publishing information about particular individuals' diagnoses, but if from the information we got from Health we then had some understanding of the numbers of cases, we could publish that.

The Hon. DANIEL MOOKHEY: What does the MOU permit you to do?

The Hon. SCOTT FARLOW: Let us come back and hear the further information from Ms McCool and then the Hon. Daniel Mookhey can ask his questions.

The Hon. TREVOR KHAN: I am actually supporting this bill and it seems to me that what may convince the Hon. Daniel Mookhey to support the bill is that we know that this information is going to be used in a way that is positive and productive.

The Hon. DANIEL MOOKHEY: That might persuade me to support the bill.

The CHAIR: While I appreciate the debate between the two members, I will allow Ms McCool to continue her answer.

Ms McCOOL: The benefit of this information is that we can now triangulate information. What we do in the workplaces through our visits and where we served notices either to compel or to check who is being screened is one aspect. We have that information, clearly. The second aspect that was difficult for us was in order to determine now that people are being screened, getting that information back. We were limited in having to provide notices to icare, where now, as I said, by having it notifiable by Health it is all doctors and in one central source. The third aspect of it is that it allows us to also potentially get information around first-time hospital admissions. They might not have gone to any kind of screening process and they would turn up at the hospital or the GP with a health condition. There is the lead work with the inspections where we can compel someone to be screened if they have not been screened,. You have got the second aspect of now getting the results of those screenings if there is an adverse result and it also provides an ability to have the stuff that is outside of all of that process because any time anyone is diagnosed through any of those processes it is now notifiable.

The issue we have is that until it is passed, in order for us to investigate how did this happen to that particular worker, we cannot do that at the moment. In terms of the second part of it, the other benefits are that it allows us to look at age, type of industry, location, how many years they have been in the industry, percentage—so 82 percent of people being diagnosed, while it is still too many people being diagnosed, there are one percent. We are screening them earlier and diagnosing them early to be able to intervene. As I said, that information will be available where we can look at how old are they, what industry they were from—

The Hon. TREVOR KHAN: Ms McCool, the question I was asking is to whom is that it available? You look at it from your perspective that it will give you information; I have got to say that you are not the only ones who are interested in the data. Legislators are interested in the data. That is why you amongst others have sat before this Committee on a couple of occasions and you have been grilled on occasions because we have wanted to know. That is why I am asking the question: If you are accumulating the data, who gets access? That is the whole point of a registry.

Ms McCOOL: Getting to that point of the question, in terms of a report there has been discussions in the MOU about publishing. In terms of the frequency recalling off whether it is three months or six month. In terms of that age, but again, not the name of the workplace or the name of the worker. A profile of number of cases, how old they are, percentage of impairment and what were they diagnosed with—either simple, chronic or accelerated silicosis.

The Hon. TREVOR KHAN: Sure. So will that information be readily available to—for instance, I will nominate three groups—legislators, unions—

The Hon. DANIEL MOOKHEY: Employers.

The Hon. TREVOR KHAN: Yes, perhaps employers; employers will be interested. I will make it four—and the medical profession. Will it be accessible?

Ms McCOOL: I see no reason why it should not be.

Ms WEBB: If we are going to put this report together and it is going to be helpful to people we would think about why would we not publish it?

The Hon. TREVOR KHAN: Indeed.

The Hon. DANIEL MOOKHEY: But when you say, "report", what report are you referring to?

Ms WEBB: The report Ms McCool was citing. We are just deciding whether it is three months or six months with that data about how many notifications and what age.

Mr DAVID SHOEBRIDGE: I had assumed that there would be a dashboard published, not a report. There would be a dashboard where you get monthly, bimonthly or quarterly updates about this information and it would be a live, updated document. You are now talking about a report. What is the actual intention?

Ms WEBB: We can certainly do it in the form of a dashboard. That is absolutely the way we do things. Whether we would have it as a live dashboard or an iterative one, we are still needing to work through. We will take on board that as an opportunity.

The Hon. DANIEL MOOKHEY: SIRA publishes it.

Mr DAVID SHOEBRIDGE: The bill allows the information to be provided from the Secretary of the Ministry of Health to SafeWork, notwithstanding the Privacy and Personal Information Protection [PPIP] Act, the privacy Act, but it does not provide any relief to SafeWork from the obligations of the PPIP Act. Have you addressed this matter in terms of what you can do with the data? For example, whether you could give the data in detail to a physician that is undertaking some detailed epidemiological study because it does not seem to give you any relief at all from the PPIP Act, but maybe there is another provision I am not aware of.

Ms WEBB: We have been talking in the past few minutes about generalised information and not specific patient details or anything that would be subject to privacy requirements. If we wanted to give information about a particular patient, I think we would be coming back to Health to identify whether that was appropriate and make arrangements.

Dr BROOME: I think you are referring to doing research with the data, and obviously there are different processes generally around doing research. I can talk from a NSW Health perspective. Obviously, we do as much is possible to provide access to relevant information for researchers because it is a good thing to support research. This data would be no different but there will have to be appropriate governance, ethics approval and all the sorts of things that go with how we make decisions about releasing data for the purposes of research.

Mr DAVID SHOEBRIDGE: I appreciate that but I would have thought SafeWork may have a variety of occupational experts and studies involving workplaces as much as the health aspects, which would mean that these studies would be organised through SafeWork rather than through Health. There is no provision in here about allowing that information to be provided to those studies. There is nothing in this. You just have to go back to negotiations with Health, is that right?

Ms WEBB: Yes, and our general privacy obligations under the privacy provisions.

Mr DAVID SHOEBRIDGE: Which would ordinarily prohibit you from doing that. If we want to establish a national register, you are going to have to be able to give this to a national body. You would have to give all the data effectively as it came from you from NSW Health. You did not think about futureproofing the legislation to allow it to happen?

Ms WEBB: Our assumption is that if a national register is set up there would be some underpinning legislation from that required by the Commonwealth and all the States, so we would be participating in that process.

The Hon. ANTHONY D'ADAM: My question is on a related matter. In earlier evidence, Dr Edwards raised an interesting distinction between a registry and a register. He seemed to imply that a registry had more granular and more detailed information. I am wondering if you could elaborate on the distinction and indicate in terms of the information being collected how it might be different to the kind of information than would be collected were a registry, as Dr Edwards described it, would be proposed?

Ms WEBB: I understand from my colleagues who are health professionals that there is a usual practice with health-related registers.

Dr BROOME: There is a semantic issue, essentially. A lot of people are not very clear when we talk about registers and registries what we actually mean.

The Hon. TREVOR KHAN: Yes, I am one.

Dr BROOME: With the notification data we will get information about each individual case which will have some information associated with it. It can go into a form where more information can be associated with it depending on what is relevant to the question at hand and how it is going to protect peoples' health ultimately and improve peoples' health. This forms the basis of a system whereby you can associate whatever information you potentially want to with individuals. To my mind that is what a register is, really; it is just a list that you can add stuff too. The question is: What information should be associated with it and what is going to actually address the issue of silicosis and how it is going to be used to stop people being exposed to silica in the first place, which is why we are all here.

Ms McCOOL: We have to be clear that the notification of silicosis is by a doctor. I did hear Dr Edwards and some of the things that were requested do not fall under the health legislation in what a doctor can notify of and he explained a little bit of complication in relation to that. If there are things outside of that that are not under

the health Act, they are under different Acts and they have not been identified. They would be different capture points and when those capture points are known, that may form a different view versus—

The Hon. ANTHONY D'ADAM: Can you give us some examples of those kind of capture points?

Ms McCOOL: When you look at the Queensland notification of silicosis and you look at our one, it is around identifying the incident and prevalence of the disease. And then when you start looking at if there are any other things that you want to add to that, that again is a notification by a doctor under the public health Acts. They do not have access to a workplace, they do not have any powers in a workplace. There are things about a workplace that need in the future to be added, that is a different piece of legislation and a different capture point. That may be what the confusion in is that this is a register of cases. In terms of a register of all other things that might be other things that are needed that fall under different pieces of legislation, it is a completely different capture point. This bill is about allowing that piece of it to be transferred to us so that we can get into the workplace to get the other piece of the data. If they can help with clarification—

The Hon. ANTHONY D'ADAM: Ultimately, who assembles the more detailed information? Is that the job of Health? Is that the job of SafeWork?

Ms McCOOL: I would probably have to ask you to clarify the question and what you mean by it. We are capturing our data in terms of—we are completing our role under the work health and safety—

The Hon. ANTHONY D'ADAM: Who manages the information in an ultimate way to enable all those benefits in terms of getting much better and clearer perspective on the prevalence of the disease and its causes?

Ms WEBB: SafeWork has a large amount of data that it will assemble in that way. There is potential incidences of silicosis in New South Wales that have nothing to do with the workplace and they might not be in the SafeWork register, in which case you might have to go back to Health and say, "How many cases were notified?" It depends a little bit on what sort of information you are wanting but the majority of cases would be in the SafeWork register. If we went into a workplace and found out something more about that person's work history, we would add it to the information that we already had if it was relevant to the diagnosis. It is never going to be an absolutely clear black-and-white formulation because we are always going to have to iterate in terms of what information is helpful as people's understanding gets better.

The Hon. TREVOR KHAN: It is better than not having the data at all.

The Hon. ANTHONY D'ADAM: That comes back to my original question. This is some form of database. Who actually manages it? Who controls it? Is it with SafeWork or is it with Health?

The Hon. TREVOR KHAN: It is SafeWork.

Ms McCOOL: Health have their information under their Acts and we have ours under ours. I am not sure in terms of linking that up there is no body or thing to do that. Essentially, that is what I understand is the principle of somehow working that out on a national level. Again, you are crossing over different portfolios to create—I guess that is the information in Health and Health in our space, we have different powers.

The Hon. ANTHONY D'ADAM: So when we talk about a silicosis register, is that what you are creating or is that what Health is creating?

The Hon. DANIEL MOOKHEY: Are we creating a register or are we creating a notification system?

Ms WEBB: We are creating notifications. We are saying that—

The Hon. ANTHONY D'ADAM: Why in your submission—

The Hon. DANIEL MOOKHEY: And this is—

The CHAIR: Order! We have a question from the Hon. Anthony D'Adam. We will allow the witnesses to answer it.

Ms WEBB: I think our submission does say something—

The Hon. ANTHONY D'ADAM: Your submission says—

The CHAIR: Order! Let the witnesses finish first.

Ms WEBB: We are, in effect, creating a register because we are saying that the information that SafeWork has would be for all intents and purposes pretty much everything you would get in a register, but we are not creating a register. It will have the same opportunity to assist us to do our job well and it will have the same opportunity to understand silicosis in New South Wales.

The Hon. DANIEL MOOKHEY: That is a key tension point, though. What you are passing off as a register—or at least achieving the same objectives as a register—we have the doctors saying it does not and it should do more; we have unions saying it does not and it should do more. That is the core point of tension. It is very helpful that you have clarified that there is a difference between a notification regime and a register because that is effectively where we are falling between.

The Hon. TREVOR KHAN: Is it not that it is actually Health that is creating a notification system because it is being done under the Public Health Act? That is step one, is it not? What is then done under this legislation is a regime that allows SafeWork NSW to receive the data that is originally being captured by a Health, correct?

Dr BROOME: Yes, and use it for the purposes of—sorry, I cannot quite remember the specific wording—regulation and for work health and safety purposes.

The Hon. TREVOR KHAN: That is right. There are two pieces of legislation that sit aside**,** or actually, it is subordinate legislation because it is a public health order that is capturing the data. This legislation allows it to transfer free of all the current legislative barriers for you then to use it in the same way that is used in other departments or other sections of departments, for instance, for food or the like. That is right, is it not?

Ms WEBB: Yes.

The Hon. TREVOR KHAN: So the question that is unresolved by this legislation is then how do you then use that data? I am not in any way being critical. It is clearly being used for the benefit of hopefully making workplaces safer. And you can it would seem, unrestrained in terms of legislative requirements, publish some of that data at least for use by other parties?

Ms WEBB: That is correct, yes.

The Hon. TREVOR KHAN: Is it a semantic argument only with regard to the term because it gets back to my previous interjection regarding a register, whatever that may mean?

Ms WEBB: Yes. There are other registers as I understand it for other conditions and sometimes they have some other features that are not captured in this one. Again, it is Dr Broome who probably is better to answer. Sometimes I think people from the medical profession are thinking of those registers.

The Hon. GREG DONNELLY: Dr Graeme gave some extensive evidence on this register/registry matter. Did you hear that before?

Dr BROOME: I did not hear it I am afraid.

Ms WEBB: I did not hear it either.

The Hon. GREG DONNELLY: I suggest that it is worth having a look at the transcript. He spends a bit of time on two or three occasions trying to make a very clear distinction, which is the point you have just made about medical professions having a clear understanding. It would be a terrible situation to have the medicos operating under what they understand and how they have used one versus the other verses what is essentially the bureaucratic understanding. That there may be some conflict over that would be a terrible situation.

The CHAIR: Mr Shoebridge, did you have a clarification on this point?

Mr DAVID SHOEBRIDGE: It is on a different point about retrospectivity of the provisions.

The CHAIR: I believe Mr Mookhey has some further points. I will come back to Mr Shoebridge.

The Hon. DANIEL MOOKHEY: I want to turn to this question as to the MOU mechanism. Can you give us the reasons why this arrangement should be affected by an MOU and not by way of regulation or by way of legislation?

Ms WEBB: We have a lot of MOUs for information sharing. It is a very typical way in which information is shared to a regulator and it allows the flexibility to change over time how those arrangements work, particularly once you have had some experience and determine whether there is some need for some change.

The Hon. DANIEL MOOKHEY: Would you agree that a regulation also provides you with the opportunity to be flexible because it can be adjusted? Is it not the case that a regulation would require the MOU to be public, subject to debate in Parliament, disallowable, subject to improvement and capable of being scrutinised by this Committee and others?

Ms WEBB: We are certainly intending to publish the MOU.

The Hon. DANIEL MOOKHEY: I agree with that but basically are we right to infer that it a discretionary choice by SafeWork NSW is the preferred mechanism?

Ms WEBB: I only know that in all my experience of working in regulation for 30 years that information sharing MOUs are the way you do it. I have just never come across a regulation arrangement for that.

The Hon. DANIEL MOOKHEY: Sure.

Ms WEBB: I cannot say anything else.

The Hon. DANIEL MOOKHEY: I do not disagree that it is a mechanism.

Ms WEBB: I do not think we made a conscious choice to do it.

The Hon. DANIEL MOOKHEY: This gets to the core of whether or not there should be, and whether the standards of what you are talking about really ought to be in a regulation form as opposed to effectively an agreement between two agencies. Do you have views as to whether or not?

Ms WEBB: Only that all my experience has been that the way that you share information is usually under an MOU. I do not think we made a conscious choice not to do it another way. That is just the typical way we do it another way but that is just the typical way we do it.

The Hon. DANIEL MOOKHEY: I am trying to appreciate this in line with the four-pronged strategy that you outlined. I understand that you are making a point specifically about the information exchange mechanism of this bill, but we have got to read this bill in the context of your broader four-pronged strategy. We have had other witnesses say that they would prefer to have this in a regulation because they can therefore judge it according to whether or not the four-pronged strategy is adequate and fit for purpose in succeeding. Do you want to respond to that view, not just specifically about an information stage aspect of it?

Ms WEBB: I guess they will be able to see the MOU in the same way they will see the regulation so hopefully they will be able to make those judgements and give us that feedback.

Ms McCOOL: If the intent of that question is under the WHS regulation, it is a model regulation that is national. We would be deviating from the model, which can be done but we would be putting prescriptive detail about the provisions of sharing information with Health in the model framework.

The Hon. DANIEL MOOKHEY: I accept that.

Ms McCOOL: Otherwise we would have to have a separate small piece that I understand would need to have its merit as well, but in terms of operating under the model regulation for work health and safety and the model Act—

The Hon. ANTHONY D'ADAM: It does not have to be under the model regulation though, does it? It can be a separate regulation.

Ms McCOOL: Potentially, but as I said, my question back was more if it was intended to go under the WHS regulation there is obviously some issues in terms of it disrupting the model. It would be a deviation.

The Hon. DANIEL MOOKHEY: I do understand the point you are making there, Ms McCool. Is there an MOU with the other regulator being contemplated by Health? The mining regulator or the resource regulator? Can I ask you, Dr Broome, to identify why mining is not listed on that form as one of the issues that should be notifiable as well?

Dr BROOME: May I just add something with regard to the MOU?

The Hon. DANIEL MOOKHEY: Of course.

Dr BROOME: I do not know if this is relevant to the Committee but at the moment there are people—for example, the secretary of Health—who can disclose information collected under the Public Health Act in connection with administration and execution of the Act or regulations. In fact, we do disclose that information and we have disclosed that information to SafeWork in the past. The specific issue here is actually from our point of view not so much whether we can disclose the information, it is making sure that we have a really robust case for why we might be disclosing identifiable information in this particular circumstance and making sure that we are all clear on why that is necessary, and secondly, being sure that the regulator can then use that information lawfully for the purposes of its Act. As I said in my opening statement, there is a bit of a lack of clarity about that. Partly that is why we have a similar provision or there is a similar provision in the Food Act. That is a part of it. We can already disclose information for public health purposes when we see it is relevant and we do. We have done it to SafeWork in the past but very rarely it would be identifying information though. It would normally be more aggregate information to say we have identified an outbreak of something.

The Hon. DANIEL MOOKHEY: I accept that but the question was more about why would you not therefore prescribe all of that in a regulation, not so much whether or not you do it or you can do it or you should do it.

Dr BROOME: I guess it depends very much on the situation from our point of view. Silicosis is a very specific condition but we receive information about all kinds of things. In public health there are all kinds of illnesses. We get outbreaks of specific kinds of infectious diseases, say, Q fever, which is occupationally related; we might get cancer clusters; we get all sorts of information. It is about being able to have some flexibility as well so that from our point of view we can react to public health issues as they arise to address them in a flexible way.

The Hon. DANIEL MOOKHEY: I understand that. Do you want to address the question as to whether or not Health is entering into an MOU with the other regulator and why mining was not put onto that form?

Dr BROOME: I will have to take on notice why mining is not in that form. As I understand it, we inform SafeWork who would engage with the mining regulator. They have a close relationship.

The Hon. DANIEL MOOKHEY: At this point is Health not entering into a direct MOU with the mining regulator?

Dr BROOME: No, not at this point.

The Hon. ANTHONY D'ADAM: Will that not create a problem though? Will you not need the same kind of exemption from the privacy legislation in order for you to transfer information to the mining regulator?

Ms McCOOL: Under the WHS Act it is known as a WHS regulator. That is Comcare, the resource regulator and us. We are all defined as the WHS regulator.

The Hon. ANTHONY D'ADAM: If the information being provided to Health and to SafeWork, do you not still need some cover to enable SafeWork to provide that information to another entity?

Ms McCOOL: We receive a lot of it notifications that are not ours. They come in and they relate for whatever reason. They have come to us and we need to transfer that to the resource address. If there was a silicosis case in a tunnelling matter, you might have—and I am using just names for the purpose of the discussion, not to name—they may work for a Comcare PCBU, which may be, say, John Holland, but then there are contractors who would do the work that are New South Wales workers, so we might get a notification for someone that works for the main PCBU and we need to transfer that to Comcare. Equally, they may receive a notification for what we call a New South Wales worker, a trade worker in that mine, and they need to transfer it back to us. Equally, we can turn up the joint inspections where we both have the same powers, but in terms of right of entry it depends on who the principal contractor is. We are the same.

The Hon. ANTHONY D'ADAM: I understand that that is in the case where information is being provided where you are the original source of the collection of the information. In this instance, Health is the original source of the information. It has been provided to you under fairly specific constraints through the memorandum of understanding, I expect, but those constraints will not necessarily then transfer to a third party whether it is Comcare or—

Ms WEBB: I understand the question you are asking. I will have to take on notice whether the fact that we are all work health and safety regulators means it is not a third party as such. I do not off the top of my head understand the exact legal arrangement, but I understand what you are asking.

The Hon. DANIEL MOOKHEY: Basically, the chain is that you will tell SafeWork and SafeWork will tell others and you are not at this point contemplating a direct relationship between Health and the other regulator in the space, which is the mining regulator. What are the reasons why you are not having a direct relationship with the mining regulator?

Dr BROOME: Mainly one of having a simple system that is most likely to work. Work health and safety regulators work closely together so it makes sense to us to have one point of contact into that sphere and then have it coordinated because, for example, it could be that someone is exposed in a mine and other settings as well. It makes organisational sense that we should have a single point of contact into the work health and safety sphere.

The Hon. TREVOR KHAN: You are the collector of information, not the sifter and culler.

Dr BROOME: Yes, that is right.

Mr DAVID SHOEBRIDGE: You cannot share this with the mining regulator because it does not have the benefits of the release from the privacy laws. You cannot share it with the mining regulator. Why have you not included that as one of the other provisions directed to the PPIP Act?

Dr BROOME: The mining regulator is one of the regulators in the legislation. They are a work health and safety regulator is my understanding.

The Hon. ANTHONY D'ADAM: That is not what you are proposing. You are proposing to transfer it directly to them as the regulator.

The Hon. TREVOR KHAN: They know that.

Ms WEBB: I understand what you are saying but I think what we are trying to say is that the relationship between SafeWork and the other regulators is such that they are looked at as one from the perspective of Health.

The Hon. TREVOR KHAN: It does not constitute a third-party transfer.

Ms WEBB: I will double-check to make sure of the legal underpinning of that ability, as Ms McCool said, because things run back and forth.

The Hon. ANTHONY D'ADAM: That is probably quite critical.

Mr DAVID SHOEBRIDGE: So when it says "regulator" in, I think, clause 2 of the bill—

The Hon. DANIEL MOOKHEY: It is in both clauses.

Mr DAVID SHOEBRIDGE: —you say that encompasses both SafeWork and the mining regulator?

Ms WEBB: The resources regulator.

Mr DAVID SHOEBRIDGE: Can you confirm that on notice? We have a 24-hour turnaround on that, can you confirm that?

Ms WEBB: Yes, sure.

Mr DAVID SHOEBRIDGE: Ms McCool says that delay of the passage of this legislation means you are not getting the information. I accept there is an argument for far more rapid implementation of this than we have had, but whenever Parliament passes this, it will enable you to get information backdated to whenever that information was provided to Health, which became a notifiable or scheduled category 2 disease in June, is that right?

Ms McCOOL: On 1 July.

Ms WEBB: Yes, 1 July.

Mr DAVID SHOEBRIDGE: So assuming this finds its way through Parliament either in its current form or in an amended form, that will not be a hindrance and you will not need any retrospectivity provisions? You will be able to access the information back to 1 July?

Ms WEBB: Yes, so if Health has had any notifications in the past month, they will be able to come over once we get this arrangement in place.

Mr DAVID SHOEBRIDGE: And what provisions have Health made to ensure that there is information about the need to provide these notifications? What has Health done to ensure that that is in the hands of peaks, in the hands of icare, in the hands of respiratory physicians? What has Health done to make sure that is happening and how many notifications has it had?

Dr BROOME: We have had a small number of notifications. I do not know the precise number but we can find out.

Ms McCOOL: On 2 June we ran a webinar with all the medical practitioners which included not only that it was to become notifiable on 1 July but the process and went through the forms. That was done in conjunction with Health. They were given two weeks to make any comments to the form or any of the process. Those forms, after it was effected, they were available on both of our websites so the doctors were briefed on the requirements—whether or not they logged in or attended but they were invited. That was also used through various others, like the Thoracic Society of Australia, the royal college, all through them, sent to them to distribute to their members. Essentially, that was done on 2 June.

Mr DAVID SHOEBRIDGE: So there has been an invitation to a webinar, is that it? The comprehensive notification to the profession has been that they have been invited to a webinar?

Ms McCOOL: It was to talk about the process but equally inviting them to a comment period.

Dr BROOME: NSW Health is also distributing information to our respiratory network, which is the respiratory physicians associated with NSW Health, advising them of the change in the legislation. One other

important thing to say is that SafeWork has been taking the lead on the communication but it is important, for example, that the form is very clear that the notification does go to SafeWork. We want to be quite explicit so that people who are making notifications exactly know what is happening with the information that gets provided to us. We want it to be very clear that in this instance it is a work health and safety issue and the notification system is a way of putting an onus on doctors to provide information that will go to the work health and safety regulator.

Mr DAVID SHOEBRIDGE: Is that because you thought there was going to be resistance or is it because—

Dr BROOME: Sorry, no. For this issue it is because we are passing the information on for the purposes of workplace regulation. We think it is very important that people who are making those notifications are aware of that so that they are able to explain to their patients, among other things, what they will do with their information.

The Hon. DANIEL MOOKHEY: I want to give you the opportunity to respond to some of the evidence other witnesses have given, on three lines really. The first is the view that was advanced by Associate Professor Yates that rather than placing the obligation on medical practitioners, it should be a multidisciplinary committee. That is a better mechanism—or medical practitioners and multidisciplinary committees is perhaps the proposition that Associate Professor Yates advanced. Do you want to respond to that?

Dr BROOME: Associate Professor Yates has made that point to us as well, so we are aware of that issue. I think when you are making a notification it is really important to try to be as clear as possible that one person is responsible for that, because as soon as there is perhaps a group of people, or perhaps two people, then you are less likely to get a notification, essentially, because somebody might think it is someone else's responsibility. There is no reason under the current system why a multidisciplinary committee cannot make a decision that this person has silicosis. But they need to nominate a medical practitioner to be responsible for notifying so that they can be confident that it has happened. Ultimately somebody has to be responsible for making the notification. I would say as well that it is based on an existing system where we either have doctor notifications or lab notifications. So that is another reason.

The Hon. DANIEL MOOKHEY: That is useful. Ms Webb and Ms McCool, did you see the evidence of Ms Mallia from the CFMMEU?

Ms WEBB: I did not have an opportunity to.

The Hon. DANIEL MOOKHEY: Did you, Ms McCool?

Ms McCOOL: Yes.

The Hon. DANIEL MOOKHEY: I was asking questions of Ms Mallia at the time as to whether or not PCBUs would have access to the information and not just the regulator. I guess this is an adjacent question to the line that the Hon. Trevor Khan was taking with his questions. Is it contemplated that a PCBU would be contacted and told, with a view that the PCBU can take action of its own to improve systems? And other people who have rights to enforce or to inspect or to seek improvements, including HSRs and employer and employee organisations, would have access to the same information as well, particularly for the non-enforcement dimensions of the safe systems approach? How would they get into the system, basically?

Ms McCOOL: Say I received a notification, the first thing is obviously contacting the worker to provide the information and the context. We get the work history, so essentially it will tell us who they have worked for and we make contact with all those who are relevant to contact. We do an interview with each of those workplaces and do an inspection, and we will take the necessary statements. Whether they ask to have their HSR there, our usual practice is when we turn up we say, "Is there an HSR here?"

The Hon. DANIEL MOOKHEY: I do not dispute that SafeWork has systems to respond. The questions to Ms Mallia were whether others should have access to the information so they can exercise their rights under the Work Health and Safety Act. That is what the question is getting at.

Ms McCOOL: Typically we would be running the investigation and making the statements and contacting the relevant people, including, as I said, some of these workers have worked in five, six, seven workplaces, so we will go to five, six, seven workplaces. In terms of anybody else pursuing, obviously we are looking at the matter of how this person developed silicosis and if so, who is accountable for it. Essentially then we would take our prosecution route if there was evidence to—

The Hon. DANIEL MOOKHEY: I do not dispute that, Ms McCool, and I am not quibbling with that; that is, of course, your mission. What I am asking is: There are other rights, requirements and obligations that people have under the Work Health and Safety Act that fall well short of enforcement and well short of

prosecution, which I think we have established is a pretty extreme step. You have made the point previously that that is not something you do lightly yourselves. For people to exercise their other rights—including for the most common scenario of workers diagnosed through an icare screening bus—the PCBU may wish to change their work procedures in some way, shape or form in response. How would they get access to the information to know to do that?

Ms McCOOL: They are connected to the worker, or they are just aware of—I am trying to get the—

The Hon. DANIEL MOOKHEY: It could be either-or. My point is if you accept there is a spectrum of enforcement options and improvement options in a hierarchy of control approach, how do people get access to the information so they can exercise the other steps in the hierarchy of control, short of prosecution?

Ms McCOOL: If a notice is issued it must be displayed. That is one step where all workers are aware that a notice has been issued by SafeWork and it is displayed.

The Hon. DANIEL MOOKHEY: I am talking about a person being diagnosed with silicosis, not a notification of a breach. If a worker is diagnosed, the doctor notifies it to NSW Health; NSW Health tells it to SafeWork NSW; SafeWork NSW goes off and does its investigations, and you have outlined the steps you would take, which sounds fine and excellent. But what happens to the rest of the PCBUs who would like to improve their systems of work well before SafeWork NSW is at that point? How do they get access to this information? How do they get told that a person has been diagnosed and that they can exercise their rights, including the right to, for example, form an HSR committee?

Ms McCOOL: I am just trying to understand. In terms of—as I said, once the notification is there, we make contact with the business. If they are under full investigation, they are notified that they are under full investigation. Anyone can request us to do a visit from an education perspective. But in terms of once they are notified, we are already in that workplace; we have visited that workplace. We are very present, obviously. So in terms of not knowing that a person has silicosis, it is an obvious thing, we have entered the workplace for the purpose of investigation as to how this person has silicosis and we are making our inquiries. That could include asking other workers about current practices, previous practices, and that is in the other case. In some cases the issues have been corrected. We do need to ask other workers around what did it look like prior to the corrections to form that point of view.

The CHAIR: Can I clarify? To the point and to simplify it, once you are notified that a worker has silicosis and has worked at a facility, for example, that has dealt with manufactured stone, you would go to that location and say, "We are here to conduct an investigation because a worker has been identified as having contracted silicosis and we want to have a look at your workplace to see if this has been a contributing factor." So there is no doubt for the business that you are there looking at a silicosis issue with a worker who has been tested, even if they do not know which worker it is.

Ms McCOOL: Correct.

The CHAIR: You do not disclose who the worker is, potentially?

Ms McCOOL: Yes.

The CHAIR: You just disclose that a worker who has worked previously or currently at that business has contracted silicosis and there is no doubt with the business that that is the case.

Ms McCOOL: Definitely. And that is where we would say, "Are there any HSRs?" particularly if we are talking to other workers. A lot of workers want the support of their HSR, so we would invite them in to the conversations that we are having.

The Hon. DANIEL MOOKHEY: But we have already established that of the 246 sites, only nine of them have an HSR. I accept your point; I understand what you are talking about. I am not sure. I think we should probably just move on.

The CHAIR: Since you have raised that point, it is now past the adjournment time. I thank the witnesses for attending the hearing today. The Committee has resolved that answers to any questions on notice will be returned within 24 hours. I know that a number of those questions were taken. If you could provide the answers to us we would be most appreciative. That concludes today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 16:45.