

The Hon Greg Donnelly MLC
Chair
Standing Committee on Law and Justice
By email: law@parliament.nsw.gov.au

Re: 2024 Review of the Dust Diseases scheme

Dear Chair

I would like to thank the Standing Committee on Law and Justice for inviting SafeWork NSW to appear at public hearing of 29 November 2024 in relation to its 2024 Review of the Dust Diseases scheme (the Review). The Committee's important work assists SafeWork NSW to develop a deeper understanding of dust diseases in NSW and identify areas for meaningful improvement.

I acknowledge the issues raised in written submissions to the Review and during witness testimony at the public hearings. It is my hope that by providing the **attached** responses to the questions taken on notice and the Committee's supplementary questions, that we can support the formulation of recommendations to address our shared goal of reducing and eliminating exposure to hazardous dusts such as respirable crystalline silica.

In addition to the responses to questions on notice and supplementary questions, I would like to take the opportunity to provide further information regarding certain matters discussed during the hearing of 29 November 2024.

I note that there was a particular focus during the hearing on matters related to transparency, particularly in relation to the ability of SafeWork NSW to release air monitoring results received under notice due to the operation of Section 271 of the *Work Health and Safety Act 2011* (the Act).

In that regard, I confirm that we will continue to work through this issue and consider how information may be more readily available to workers and their representatives within the current legislative framework. With respect to the operation of Section 271 of the Act, we are also broadly considering opportunities for improved transparency through the proactive release of relevant information for the benefit of workers and the wider community.

I also note that other jurisdictions have implemented specific legislation, outside of the nationally harmonised model work, health and safety laws, to address these issues. Queensland and South Australia (SA) have both implemented amendments to Section 271 to allow for the provision of information obtained under notice in certain circumstances, for example, to enforce compliance with the Act, to share with a corresponding regulator or to comply with other prescribed legislation. It is further noted that SA has specific provisions related to the sharing of information with family

members of injured workers. SafeWork NSW is currently considering the operation of these frameworks within these respective jurisdictions and, taking into consideration the evidence provided to the Committee, would welcome a recommendation from the Committee in this regard.

I can also confirm that SafeWork NSW has followed up on all 36 notifications of exceedances of the workplace exposure standard (WES) discussed during the hearing. All tunnels that reported WES exceedances have been inspected as part of routine compliance activity over the past three months. Combined silica compliance and infrastructure inspections were also carried out in relation to four tunnels under construction as part of a dedicated SafeWork NSW silica program. To further support this important work, we are progressing work to expedite the Tunnelling Code of Practice, and I can confirm that invitations will be sent to establish the appropriate working group to meet as a priority in early 2025.

Finally, I would like to provide clarification with respect to my testimony of 29 November 2024 as captured on page 53, paragraph 8 of the transcript. While it was stated that it is a new requirement from 1 September 2024 to provide information [air monitoring results] to workers under the Work Health and Safety Regulation 2017 (WHS Regulation), I would like to clarify that the requirements to conduct air monitoring and provide that information to workers has been a requirement under the WHS Regulation since its inception in 2011. Rather, from 1 September 2024, exceedances of the WES (which air monitoring is required to test for) must now be reported to SafeWork NSW.

I trust the further responses are of assistance to you and look forward to receiving the recommendations of the Committee. If you would like more information, or a more detailed briefing on the progress of SafeWork NSW towards becoming a standalone agency, please do not hesitate to contact me at

Yours sincerely,

Trent Curtin
A/Deputy Secretary
SafeWork NSW