

SAFE WORK AUSTRALIA



Consultation Regulation Impact Statement Managing the Risks of Respirable Crystalline Silica

Submission by Shine Lawyers Roger Singh National Dust Diseases Special Counsel



Background

Shine Lawyers has since mid-2018 been instrumental in bringing to light the national silicosis crisis associated with stonemason exposure to high silica content engineered stone. This entailed writing to and meeting with state and territory minsters in July and August 2018 to express concerns emanating from a surge of workers seen by Shine Lawyers dust diseases practice with silica induced injury. Such injuries amongst stonemasons comprising of lung damage in the form of silicosis and progressive massive fibrosis and /or crippling autoimmune compromise in the form of rheumatoid arthritis and scleroderma¹.

Subsequent thereto in recognition of the emerging pattern of disease, and necessity to stem the tide, in September 2018 Shine Lawyers advanced a solution to the impending silica induced injury crisis in the form of a detailed submission entitled "A Need For Laws Protecting Stone Masons Against Engineered Stone- Silica Dust"². The submission was duly circulated to government at state, territory and federal level, propagating an initiative for robust regulation of the stone mason industry with a licensing scheme. The scheme serving to restrict the supply and handling of engineered stone to only those businesses that qualify for a license by adhering to stringent workplace safety practices. Furthermore, the scheme's regulatory framework prohibiting engineered stone manufacturers from supplying their product to businesses other than those holding a current license.

The work of Shine Lawyers continued to stress and push for urgent regulation of the engineered stone industry and stone mason businesses at a national level. This extended to oral and written submission to the National Dust Diseases Task Force (NDDT) - 8 November 2019, 10 November 2020 and 27 April 2021³. Each submission advocated for the ban of engineered stone but reinforced the necessity for a national licensing scheme in the absence of the will for a product ban or pending the occurrence of such.

In June 2021, the NDDT handed down its final report which, inter alia, recommended a licensing scheme for engineered stone and in November 2021 WorkSafe Victoria announced the country's first licensing scheme to protect engineered stone workers⁴.

The All of Government's Response To The Final Report Of The NDDT March 2002 confirmed its continuing work with state and territory governments and other stakeholders to address the concerning increase in silicosis cases amongst engineered stone workers. It further confirmed its support for the highest level of protection to workers from risks associated with respirable crystalline silica (RCS) generating activities in the engineered stone industry and the need for consideration of a licensing scheme or equivalent to restrict access to engineered stone product. Additionally, the Government's response recognised that different approaches are likely to be required for the broader range of industries working with silica containing materials beyond engineered stone.

Shine Lawyers work in raising awareness of silica induced injuries amongst Australian workers, and the necessity to eliminate hazardous silica exposure, has largely targeted the engineered stone industry but of course the prevalence of silica dust extends to other workplaces and occupations including tunnelling, quarrying, mining, milling and bricklaying.

Insofar as the engineered stone industry is concerned it is alarming to note that in excess of four years has elapsed since Shine Lawyers alerted state, territory and federal government⁵ of the impending silica induced injury crisis. Since that time, we have seen only Victoria take steps to implement robust regulation of the industry with the roll out of a licensing scheme. Such a scheme may go some way to safeguarding the lives and wellbeing of workers and spare families the heartache of seeing their loved ones perish from silica induced lung and crippling autoimmune diseases.

Continued ...

⁵ Email communication with The Hon Kelly O'Dwyer MP and The Hon Greg Hunt MP, 10 October 2018 and 11 July 2019



¹ Letter to Hon.Dominic Perrottet 12 July 2018 (similar letters dispatched to all other state and territory ministers)

² A Need for Laws Protecting Stone Masons Against Engineered Stone Silica Dust – 19 September 2018 to NSW Minister of Energy and Environment (Matt Kean) and email exchange 21 September and 31 October 2018 (similar duly adapted submission dispatched to all other states and territories).

³ NDDT submission of Roger Singh 8 November 2019,10 November 2020,27 April 2021.

⁴ License Scheme to protect engineered stone workers (Victoria WorkSafe) 22 November 2021

In the absence of sooner regulation in the form of a licensing scheme or equivalent the number of diagnoses amongst stonemasons that we will now witness, in the form of silica induced lung and autoimmune disease, will be far in excess of that which would have eventuated in the event of earlier robust industry regulation. Testament to this is what can be gleaned from the rate of diagnoses and associated concerns as reported and acknowledged by various sectors including Safe Work Australia's June 2022 Regulation Impact Statement, and the NDDT's investigations and findings⁶. Additionally recent research from Curtin University attests to the expected numbers of engineered stone associated silicosis and lung cancer diagnoses in absence of action and industry regulation⁷.

It was the significant concern of devastating health impacts arising from occupational silica exposure, and the pattern/number of diagnoses amongst workers who approached Shine Lawyers that triggered Shine's dust diseases practice to commence advocating for the creation of safer Australian workplaces. Such advocacy and lobbying, as of mid-2018, extending to the range of activity noted above. The urgency for action became all that more real with increasing rates of diagnoses evidenced by the growing cohort of injured workers, including the many assisted by Shine. The many workers who have approached Shine, stonemasons and those from other industries, have been keen to share their stories to raise awareness and the need for action; stories including that of Anthony White the first Australian stonemason, at 38 years of age, to perish from engineered stone exposure⁸.

With reference to the foregoing the numerous examples of occupational silica induced death and destruction of health and wellbeing is indicative of the necessity for immediate regulation of the stonemason industry; with action such as a national licensing scheme as embraced by the State of Victoria. For Shine Lawyers, in light of its work in dust diseases and lobbying to date, it is imperative to advance submissions in response to Safe Work Australia's Compensation Regulation Impact Statement. Thereby initiating solutions that are implemented at a national level to tackle the national silica induced injury crisis. It must however be noted that urgency for robust regulation, particularly of the engineered stone industry, was evident as long ago as 2018, if not prior thereto. Sadly, four years on, other than `recent steps taken by Victoria, the nation is still bereft of regulation whereby scores of workers will undoubtedly have suffered toxic exposure paving the way for scores of further silica related diagnoses that could have been avoided by sooner action. Of course, silica exposure in this sector, and other industries, continues to the present day with irreparable damage to health and lives cut short.

The time for investigation, debate and discussion has long passed and action is required without further delay to save lives and safeguard workers from crippling health effects.

National Licensing Scheme – Engineered Stone

Shine Lawyers is in full support of **option 4** (page 31 of Regulation Impact Statement). A licensing scheme is considered to be vital to safeguard engineered stone workers who in recent years have been a focal point of the national silicosis crisis, in light of the rate of diagnoses, within this occupational pursuit. In the absence of such a scheme we will continue to see diagnoses of irreparable damage to health of workers and associated deaths, through no fault of their own.

Continued ...

⁶ National Dust Disease Task force Interim and final reports December 2019 and June 2021.

⁷ The Conversation (Academic Rigour journal Article) Curtin University Research 12 July 2022

⁸ Silicosis Death of Anthony White sparks calls for action to address "nationwide epidemic"- ABC News dated 13 March 2019 Silicosis victim's brother also suffering from deadly disease- Brisbane Times dated 13 March 2019

Workers diagnosed with silicosis push for ban on engineered stone after National Dust Disease Taskforce report – ABC News dated 15 July 2021 How tradie's three- year cough led to silicosis diagnosis – News.com.au dated 18 September 2019

^{&#}x27;It's in your hair, on your skin': Stonemason claims work on Parliament House caused terminal disease – The Sydney Morning Herald dated 20 January 2020

Tradie sues over Lung disease - The Herald Sun dated 03 August 2022

Deadly dust sparks wave of lawsuits as workers fall ill - The Herald Sun dated 07 June 2020

The "hard work" in terms of a regulatory framework for a national licensing scheme has already been done by the state of Victoria under the auspices of the Victorian Occupational Health and Safety Amendment (Crystalline Silica) Regulation 2021. Robust regulation of this kind is long overdue, in June 2021 the NDDT in its final report promoted a national licensing scheme as key recommendation to curtail silica induced injury associated with engineered stone. By November 2021 Victoria became the first Australian jurisdiction to announce and implement a licensing scheme, it is submitted that the Victorian example paves the way for all other states and territories to follow suit with immediate effect.

As for the likelihood of a licensing scheme impacting competition effects which may have disproportionate effects on small businesses, it is submitted that the cost of workers lives, and adverse silica related health impacts must be paramount considerations in contrast to small business interests. We have seen numerous small-scale businesses throughout Australia handling engineered stone with total disregard for worker safety; put quite simply such enterprises must not be permitted to operate in the absence of a license which underpins adherence to stringent workplace and safety standards. Furthermore, engineered stone manufacturers should only be permitted to supply their high silica content product to only those businesses that hold a license.

A licensing scheme is destined to be effective in protecting workers and enterprises handing and fabricating engineered stone, As noted above, with reference to recent Curtin University research, such regulation will go some way to curtailing silica related lung diseases with cost saving to the health system and compensation regimes. Most importantly many lives will be saved, and health preserved allowing families to remain intact.

It is submitted that the engineered stone sector must be tackled in isolation to other industries as the issue within the sector is stark and has been highly visible in recent years with it being the catalyst for the NDDT investigation and findings. To this end it is submitted that option 4 is the appropriate and effective solution to tackle the engineered stone sector.

In addition to a licensing scheme regulation, it is important to implement and maintain national awareness and behaviour change initiatives as detailed at **option 2**.

Ban on Engineered Stone

Shine Lawyers in its 2019,2020 and 2021 submissions to the NDDT conveyed the necessity for a product ban akin to the asbestos approach. A product ban can be the only potential guarantee to extinguish occupational exposure associated with high silica content engineered stone. The product is not manufactured in Australia thus abolition of stone importation is the solution. In the recently published Curtin University research, it is estimated that that the banning of engineered stone will prevent 100 lung cancers and 1,000 cases of silicosis. These statistics alone, and when considering the same in conjunction with silica induced autoimmune diseases, provide very good reason for a move towards a product ban.

Shine Lawyers supports a total ban of engineered stone by 2024 at the latest and pending product ban it is imperative that regulation in the form of a national licensing scheme is implemented as a robust interim measure.

Other Occupations and Industries

Although the focus on silica induced injury has in recent years largely been on the engineered stone sector it is recognised that occupational silica exposure extends to many other industries including mining, quarrying, milling, and bricklaying. There is of course a need for industry regulation to safeguard against hazardous silica exposure in these sectors as there is with stonemasons and engineered stone.

With reference to the foregoing Shine Lawyers support **option 5b** with respect to the regulation of high-risk crystalline silica process for all materials excluding engineered stone. The estimated cost to government and industry associated with this option is noted at page 7 of the consultation regulation impact statement. It is further noted that to "break even" around 48 cases of silicosis would need to be prevented over a 10-year period. It is averred with stringent regulatory and non-regulatory measures there is scope to exceed 48 cases with an outcome that exceeds the "break even" threshold.



Do you agree with the case government intervention?

Yes, for in the absence of the same, other than Victoria, there has been a lack of action by way of promoting and implementing effective regulatory measures to curtail hazardous silica exposure associated with engineered stone and in industries beyond the engineered stone sector.

The government is strongly urged to support and implement a national licensing scheme such as that which Shine lawyers flagged as long ago as 2018 and such as that embraced by the State of Victoria in 2021.

Insofar as evidence to support the above response is concerned, I refer to all that stated above including content under the subheading "Background".

Do the options address the problem?

Insofar as the engineered stone menace is concerned, yes, it is considered the issue is addressed with the implementation of a national licensing scheme **(option** 4) which ought to stand as an interim measure pending the ultimate ban of engineered stone no later than 2024. To labor the point further a ban of engineered stone is called for as the best possible safeguard against high silica exposure.

It is averred that **option 5b** goes some way to eliminate the hazards of occupational silica exposure in industries outside the engineered stone sector.

Which Combination of Options presented most likely address the identified problem?

For reasons stated above, including under the subheading "Background" **option 2, option 4** and **option 5b** are supported.

Conclusion

We commend all agencies and stakeholders for the time and energy that has been devoted to investigating and advancing possible solutions to tackle the scourge of occupational silica exposure associated with engineered stone and other industries. However, some concern must be levied at the time which has elapsed since the issues came to light, particularly within the engineered stone sector, despite which robust regulation, other than in Victoria, is still awaited.

The opportunity for me to share my observations and extend solutions as part of a collective approach with other stakeholders is appreciated. As someone who has for over the past years assisted an abundance of workers and families impacted by the scourge of occupational exposure associated with engineered stone, and other occupations, it has been important for me to contribute in a positive way to push for regulatory change.

For some the push to extinguish hazardous workplace silica exposure is too little too late and for others until such time as robust regulation is implemented their health will be irreparably damaged together with the risk of an early demise, hence the time for long overdue action is critical.

Roger Singh Shine Lawyers (Dust Disease National Special Counsel)

12 August 2022







SHINE LAWYERS



No.

Particulars

SUBMISSION

1. Letter to Hon. Dominic Perrottet dated 12 July 2018 (similar letters dispatched to all other state and territory ministers)

DOCUMENTS

- A Need for Laws Protecting Stone Masons Against Engineered Stone Silica Dust 19 September 2018 to NSW Minister of Energy and Environment (Matt Kean) and email exchange 21 September and 31 October 2018 (similar duly adapted submission dispatched to all other states and territories)
- 2. NDDT submission of Roger Singh dated 8 November 2019, 10 November 2020 and 27 April 2021
- 3. License Scheme to protect engineered stone workers (Victoria WorkSafe) dated 22 November 2021
- 4. The Conversation (Academic Rigour Journal Article) Curtin University Research dated 12 July 2022
- 5. Email communication with The Hon Kelly O'Dwyer MP and The Hon Greg Hunt MP, 10 October 2018 and 11 July 2019

NEWS ARTICLES

- 1. Silicosis Death of Anthony White sparks calls for action to address "Nationwide Epidemic" ABC News dated 13 March 2019
- 2. Silicosis victim's brother also suffering from deadly disease –Brisbane Times dated 13 March 2019

Workers diagnosed with silicosis push for ban on engineered stone after National Dust Disease Taskforce report – ABC News dated 15 July 2021

- 4. How tradie's three-year cough led to silicosis diagnosis– News.com.au dated 18 September 2019
- 5. It's in your hair, on your skin': Stonemason claims work on Parliament House caused terminal disease The Sydney Morning Herald dated 20 January 2020
- 6. Tradie sues over lung disease The Herald Sun dated 3 August 2022

3.

7. Deadly dust sparks wave of lawsuits as workers fall ill – The Herald Sun dated 7 June 2020 CONTACT: CONTACT EMAIL: Roger Singh



12 July 2018

Hon. Dominic Perrottet MP

To the Honourable Dominic Perrottet MP

I write to you with grave concern for the safety of stone masons in New South Wales in light of an emergence of silicosis diagnoses within this workforce.

I am Shine Lawyers National Special Counsel for Dust Diseases Litigation and I have practised in this field in both the UK and Australia representing scores of injured workers with asbestos diseases, coal miner's black lung, silicosis, together with exposure to other toxic agents. I have conducted dust diseases litigation in Queensland, NSW, Victoria and the NT during my years of practice.

I ask that the State Government please consider a parliamentary enquiry into silica exposure within the stone industry. The reason we propose this course of action is to bring about stringent safety and enforcement measures framed in legislation so as to safeguard against dangerous work practices.

Over the past twelve months in my practice of dust diseases litigation I have seen a pattern of workers who cut and fabricate engineered stone, used for kitchen and bathroom benchtops, presenting with diagnoses in some instances with life threatening consequences.

Engineered stone is a relatively new type of stone product having been introduced to the market in around 2003/2004 and which comprises of around 90% free crystalline silica.

My investigations have established that many stone mason fabrication workshops, engage in rudimentary fabrication processes including "dry cutting". In the event of "dry cutting" respirable dust particulate is liberated and exposure to such dust is hazardous and places the health and wellbeing of workers at extreme risk.

It is apparent to me that the workshops are failing to implement safe work practices, such as wet cutting processes, with devastating impacts to the health and wellbeing of their workers. Of particular alarm to me is that the impacts of these exposures are indiscriminate and I am seeing young men in their 30's and 40's whose lives and livelihoods have been devastated.

The dangers of silica exposure have been well known and documented in the industrial and medical world for decades. Notwithstanding the fact that engineered stone is comprised of 90-95% crystalline silica, I have seen little effort being made by workshops to reduce occupational exposure risk to workers. Indeed, it seems that the practices employed in cutting and fabricating natural stone such as marble and granite, containing much lower silica content, have simply been adopted with respect to engineered stone which was first introduced into the market over a decade ago. Such practices as noted, extending to dry

CONTACT: CONTACT EMAIL: Roger Singh



RIGHT WRONG. cutting and reckless disregard for workers safety, appear to be the prevailing culture within the stone fabrication industry.

In a similar vein to the scourge of asbestos the development of disease from the time of first exposure to the appearance of disease can range from between 10 to 20 years or more. There is a cause for alarm in that unless measures are taken to curtail adverse work practices we will be faced with another asbestos legacy.

A number of those workers that I am currently representing, together with myself, are calling for an immediate investigation into adverse workshop practices with a parliamentary inquiry in mind to establish failings and thereafter making and implementing measures to safeguard workers.

I would be most grateful if you could give the above your prompt attention and if possible I ask that I have the opportunity to meet with you to discuss what steps can be taken in a timely manner to curtail further injury, loss and fatality to these workers.

I thank you in anticipation of your reply.

Yours faithfully

(

Roger Singh

From: Sent: To:	Roger Singh Wednesday, 31 October 2018 2:00 PM
Cc: Subject:	FW: A Need for Laws Protecting Stonemasons against Engineered Stone Silica Dust
Attachments:	To the Honourable Matt Keane MP - A Need for Laws Protecting Stone Masons against Engineered Stone Silica Dust.pdf
Importance:	High

To the Honourable Matt Kean MP,

I refer to my below email dated 21 September 2018 and attachment and note that I am still waiting to hear from you

I would be grateful if you could respond to my communication within the next 7 days and if you wish to discuss matters with me by way of telephone conference or face to face meeting then I will be happy to do so.

. thank you in anticipation of your reply.

Kind Regards Roger Singh

From: Roger Singh

Sent: Friday, 21 September 2018 11:22 AM

To: Cc:

Subject: FW: A Need for Laws Protecting Stonemasons against Engineered Stone Silica Dust Importance: High

To the Honourable Matt Kean MP,

You will be aware that on 15 August 201 I met with the Honourable Dominic Perrottet MP to raise concerns which I putlined in correspondence dated 12 July 2018 with respect to the emergence of silicosis diagnoses within the stone mason industry.

On 6 September 2018, I received an email communication from Edward M. Yap (senior policy advisor) advising that you would be in the best position to discuss the New South Wales Government's "continuing efforts on this important matter" and that my correspondence had been on forwarded to you and that your office would be in touch. I appreciate the commitment and keen interest that the Honourable Dominic Perrottet MP conveyed during my meeting with him to ensure that prompt action is taken to act on adverse practices within the stone masonry industry, which are putting the health and lives of NSW workers at risk.

Since my said meeting I have continued to receive calls from workers around the country who raise concerns about ongoing hazardous work practices, such as "dry cutting" of engineered stone with consequent diagnoses of silicosis and/or autoimmune diseases.

I have met with other Ministers around the country, including the Honourable Grace Grace MP (Qld) and in recent days Workplace Health and Safety (Qld) have issued an alert entitled "Immediate Action required to prevent exposure to silica for engineered stone workers". I am heartened by the investigation and audit undertaken at the behest of the Honourable Grace Grace MP's office and in light thereof I would be grateful if you would consider following a similar approach to that adopted in Queensland by way of an immediate investigation into the subject industry in NSW, followed by the implementation of a regulatory framework to safeguard workers from exposure to silica associated with engineered stone products.

With reference to the above I attach a submission for your consideration which you are requested to consider with a view to adopting the same in a form of much needed regulation.

I would be most grateful if you could give the attached your prompt attention and if possible I ask that I have the opportunity to convene with you to discuss what steps can be taken, including the adoption of the attached proposal, in a timely manner to curtail further injury, loss and potential fatality to these workers.

I thank you in anticipation of your early reply.

Yours Faithfully Roger Singh

1

Т

A NEED FOR LAWS PROTECTING STONE MASONS AGAINST ENGINEERED STONE SILICA DUST

I INTRODUCTION

Silica dust can be harmful when inhaled into the lungs over a long period of time at low to moderate levels, or short periods at high levels. Such exposure can lead to serious diseases, including silicosis, massive pulmonary fibrosis and lung cancer. It can also lead to increased frequency of tuberculosis and autoimmune conditions, such as scleroderma, rheumatoid arthritis and Sjögren's Syndrome.¹ The Australian exposure standard for airborne crystalline silica is 0.1mg/m³ over an eight-hour day, which is a limit based on preventing silicosis and lung cancer. Silica dust is prevalent in the stone masonry industry, in particular in the cutting and fabrication of engineered stone, which contains a high content of free crystalline silica, resulting in potentially dangerous levels of silica exposure.² This submission provides some background regarding the current laws in New South Wales (NSW) with respect to silica dust, which are inadequate to safeguard workers in the stonemasonry industry and stresses the need for vigorous regulation of the industry in the form of a legislative framework specific to stonemasons undertaking the cutting of engineered stone in a workshop setting.

II CURRENT LAWS REGULATING SILICA

In New South Wales, the *Work Health and Safety Regulation 2017* (NSW) provides some regulation regarding RCS.³ Exposure standards must not be exceeded⁴ and must be monitored by the person conducting the business, with records kept for up to 30 years.⁵ It must be ensured that no person at the workplace is exposed to a substance above its exposure standard and exposures must be reduced so far as is reasonably practicable. Likewise, health monitoring is required to workers if there is a significant risk to the worker's health because of exposure to crystalline silica. Schedule 14 lists crystalline silica as a hazardous chemical requiring health monitoring and outlines the health monitoring requirements. Some health monitoring duties include using registered medical practitioner with experience in health monitoring, providing a copy of the health monitoring report to SafeWork NSW if the worker has developed a disease or injury, and for the records to be kept for 30 years.⁶

Risks to health and safety in relation to RCS must be eliminated or minimised, and suitable information, training, instruction and supervision must be provided to workers using RCS regarding the nature of the work, risks and control measures implemented.⁷

1

¹ Matar E. et al. 'Complicated Silicosis resulting from occupational exposure to engineered stone products' (2017) 206 (9) *Medical Journal of Australia*, 385.

² Ibid; Plasvic A. et al. 'Sjögren's Syndrome and Silicosis – a Case Report' (2015), 3(2), *OA Maced J Med Sci*, 326.

³ NSW Government, Crystalline Silica – Technical Fact Sheet, SafeWork NSW

<<u>http://www.safework.nsw.gov.au/media/publications/health-and-safety/hazardous-chemicals/crystalline-silica-technical-fact-sheet</u>>.

⁴ Work Health and Safety Regulation 2017 (NSW) reg 49.

⁵ Ibid reg 50.

⁶ Ibid regs 368-378.

⁷ Ibid regs 39, 379.

Best practice control of silica incorporates the use of the Workplace Exposure Standard for RCS found in Safe Work Australia's *Workplace Exposure Standards for Airborne Contaminants* and the *Hazardous Substances Information System.*⁸

III THE EFFECTIVENESS OF THE CURRENT LAWS TO THE STONE MASONRY INDUSTRY

It is asserted that **current regulations**, which are applicable in broad terms to an array of occupations, businesses and industries, **are ineffective in safeguarding those who work in the stonemasonry industry**. The cutting and fabricating of stone, in particular engineered stone, results in substantial toxic exposure well in excess of the Australian exposure standard. This is supported by workers who have approached the Shine Lawyers Dust Diseases practice with diagnoses of silicosis, massive pulmonary fibrosis and auto-immune conditions within the past 12 to 18 month period.⁹ The Dust Diseases division at Shine is continuing to see and hear from stonemasons with first hand stories regarding the impact of negligible safeguards against hazardous dust levels and ongoing work practices of "dry cutting" within workshop settings.

In addition to the foregoing, it is contended that the Queensland Workplace Health and Safety (WHS) Alert dated 18 September 2018, which although relates to Queensland workers, nevertheless attests to the need for immediate action to prevent exposure to silica for engineered stone benchtop workers.¹⁰ The Alert is most welcome as it highlights the issue at hand. Although the Alert details what action must be taken to prevent hazardous exposure levels, it is of concern that if workshops are left to self-regulate in the absence of vigorous external enforcement mechanisms, they will fail to implement appropriate and permanent safety measures. The issue is of nationwide concern as stonemason workshops are prevalent in each and every State and Territory, including NSW. It is contended that if an audit akin to that conducted in Queensland is undertaken in NSW, there is an extreme likelihood that similar alarming statistics to those found in Queensland will be evident amongst NSW workers.

We submit that there is a need for an audit in NSW such as that undertaken by Queensland, so as to highlight the significant health risks caused by exposure to respirable crystalline silica (RCS) for workers in engineered stone benchtop manufacturing in the state of NSW. With such investigation, which must be undertaken as a matter of priority, there must then, by necessity, be a call for immediate action to prevent exposure to silica for engineered stone benchtop workers akin to the aforementioned immediate action alert issued by WHS Queensland. Further to the despatch of an immediate alert, in keeping with the Queensland approach, there must then follow efforts to create and implement regulatory laws specific to the stonemasonry industry, namely workshops which handle,

<https://www.worksafe.gld.gov.au/__data/assets/pdf_file/0006/82806/silica_crystalline_dust.pdf>.

ĺ

⁸ Department of Justice and Attorney-General, *Silica – Identifying and managing crystalline silica dust exposure* (January 2013) Workplace Health and Safety Queensland

⁹ With respect to such workers, we refer to the following article: <u>https://www.news.com.au/finance/work/at-work.alarming-spike-in-tradics-hit-by-deadly-condition-caused-by-the-new-asbestos/news-</u>

story-59899b349844f6ac6e31c17579d9a42c

¹⁰ https://www.worksafe.qld.goy.au/injury-prevention-safety/alerts/whsq/2018/prevent-exposure-to-silica-forengineered-stone-benchtop-workers?utm_medium_remail&utm_campaign_Safety+alerty-

<u>Immediate - action + required + to + prevent - exposure + to + silica + for+ engineered + stone + benefitop + workers&utm_content_Read + the + full+ safety + alert&utm_source; www.vision6.com.au</u>

cut and fabricate engineered stone. In order to outline proposed recommendations, we will first touch upon the current laws regulating asbestos.

III LAWS REGULATING ASBESTOS

It is well known that the scourge of asbestos, decades after incidents of exposure, has continued to destroy and extinguish lives of Australian workers and impact families up to the present day. In so far as asbestos is concerned, regulatory action that was ultimately taken was in many respects "too little, too late". Although the laws regulating asbestos are different in each State and Territory across Australia, there is a general acknowledgement of the dangers of asbestos and a guideline of what must be done when managing or controlling a workplace which deals with asbestos. The steps are as follows:

- 1. There must be an asbestos register;
- 2. There must be an asbestos management plan;
- 3. The asbestos must be controlled in the workplace;
- 4. The right training and licensing must be held; and
- 5. Workers' health must be monitored.¹¹

A New South Wales

In New South Wales, asbestos is regulated under a chapter specific to asbestos, chapter 8, of the *Work Health and Safety Regulation 2017* (NSW). Asbestos exposure must be identified and managed,¹² a register must be used,¹³ an asbestos management plan must be prepared and reviewed,¹⁴ health monitoring,¹⁵ training to workers about asbestos.¹⁶ Asbestos removal work must be carried out by licensed asbestos removalists, with a maximum penalty of \$6,000 in the case of an individual or \$30,000 in the case of a body corporate if this is contravened.¹⁷ An asbestos removal supervisor must also be present or readily available.¹⁸ The asbestos removal worker moval worker must hold a certification in relation to the specified VET course for asbestos removal relevant to the class of licensed asbestos removal work to be carried out, reflecting the aforementioned maximum penalty.¹⁹ Licensed asbestos removalists must keep training records while the worker is carrying out the removal work and for five years after.²⁰

Upon completion of the licensed asbestos removal work, a clearance inspection of the asbestos removal area at the workplace must be carried out by an independent licensed asbestos assessor or an independent competent person, with a maximum penalty of \$6,000/\$30,000 (individual/body corporate) if contravened.²¹ Division 3 outlines the process of obtaining an asbestos removal licence.

- ¹⁶ Ibid reg 445.
- ¹⁷ Ibid reg 458.

¹¹ https://www.safeworkaustralia.gov.au/asbestos

¹² Work Health and Safety Regulation 2017 (NSW) regs 420, 422-424.

¹³ Ibid regs 425-427.

¹⁴ Ibid regs 429-430.

¹⁵ Ibid regs 435-444.

¹⁸ Ibid reg 459.

¹⁹ Ibid reg 460.

²⁰ Ibid reg 461.

²¹ Ibid regs 473-474.

B Queensland

In so far as Queensland is concerned, from 1 July 2018, persons conducting a business or undertaking are required to comply with an approved code of practice under the *Work Health* and Safety Act 2011 (Qld). With regards to asbestos, the two relevant codes of practices are: *How to manage and control asbestos in the workplace Code of Practice 2011*, and *How to* safely remove asbestos Code of Practice 2011, both of which commenced on 1 January 2012.

The first stage in the process is identification of asbestos in the workplace by a person who may be considered to be competent in the identification of asbestos, which includes occupational hygienists, licensed asbestos assessors, asbestos removal supervisors, individuals with a statement of attainment in the VET course for asbestos assessors, and persons working for an organisation accredited by the National Associated of Testing Authorities (NATA) under ISO 17020 for surveying asbestos. Once asbestos has been identified at the workplace, a person with management or control of a workplace must ensure an asbestos register is prepared and kept at the workplace. The asbestos register must record any asbestos identified at the workplace or likely to be present from time to time. There are further requirements of asbestos sample analysis, the use of warning signs and labels, and regulations regarding the demolition, refurbishment and removal of asbestos.²²

Asbestos management plans are also required as they help with management and control of buildings and other relevant structures to prevent exposure to airborne asbestos fibres by their staff and site visitors. Reasonable steps must be taken to label and record asbestos in a register and inform everyone on the premises where asbestos is present, the consequences of exposure to asbestos and other appropriate control measures. The plan must include details including how people at risk are informed about asbestos in the workplace, the risks they pose and the control measures in place, monitoring arrangements, responsibilities of people involved in the plan, training arrangements for workers and contractors, and safe work methods.²³

The removal of asbestos must be undertaken by a licensed asbestos removalist with a removal control plan of how the removal will be carried out.²⁴ An asbestos removal supervisor must also be present or readily available.²⁵ The licensed removalist must obtain a copy of the asbestos register.²⁶ The asbestos removal worker must hold a certification in relation to the specified VET course for asbestos removal relevant to the class of licensed asbestos removal work to be carried out, with a maximum penalty of 60 penalty units.²⁷ Licensed asbestos removal work and for five years after.²⁸ Upon completion of the licensed asbestos removal work, a clearance inspection of the asbestos assessor or an independent competent person, with a maximum penalty of \$6,000/\$30,000 (individual/body corporate) if contravened.²⁹

ſ

²² <u>http://www.deir.qld.gov.au/asbestos/know-where/asbestos-registers-for-workplaces.htm</u>

²³ http://www.deir.qld.gov.au/asbestos/know-where/asbestos-management-plans.htm

²⁴ Work Health and Safety Regulation 2011 (Qld) reg 458, 464.

²⁵ Ibid reg 459.

²⁶ Ibid reg 463.

²⁷ Ibid reg 460.

²⁸ Ibid reg 461.

²⁹ Ibid regs 473-474.

It is of note that an asbestos assessor licence may only be granted pursuant to an application process which entails the completion of a form of application by the applicant.³⁰

C Victoria

In Victoria, asbestos is regulated under the *Occupational Health and Safety Regulations 2017* (Vic), Part 4.4. Risk of asbestos exposure must be managed or controlled in the workplace,³¹ results of atmospheric monitoring must be available,³² and analysis of samples must be undertaken and approved.³³ Furthermore, a person must not perform asbestos removal work unless they hold an asbestos removal licence that permits the person to remove the asbestos,³⁴ with requisite training and training record to be made.³⁵ Asbestos must be identified,³⁶ and an asbestos register must be kept.³⁷ Appropriate medical examinations must also be arranged and conducted by a registered medical practitioner for each employee engaged in ongoing asbestos removal work if there is a risk of exposure to airborne asbestos fibres.³⁸ An asbestos control plan must also be prepared.³⁹

With reference to the foregoing, it is noted that the risk of asbestos exposure is acknowledged by each of the states mentioned with discreet, vigorous regulatory regimes implemented to safeguard against asbestos exposure. It is of note that New South Wales has consistently adopted best practice in recognising the plight of those impacted by toxic exposures, in particular asbestos, with the creation of the Dust Diseases Tribunal and iCare and also the abovementioned regulation with respect to the handling of asbestos.

IV PROPOSED REGULATION TO PREVENT EXPOSURE TO SILICA FOR ENGINEERED STONE BENCHTOP WORKERS

A Long Term Solution

It is proposed that, in line with the approach adopted by New South Wales with respect to asbestos, silica be regulated within the *Work Health and Safety Regulation 2017* (NSW) under a chapter specific to engineered stone workshops.

It is proposed that the regulation should direct for the following to be discharged, in order for a stone masonry workshop to be entitled to operate:

1. The cutting and fabrication of engineered stone must be carried out by only a licensed workshop, which to be licensed must demonstrate adherence to those actions identified in the Workplace Health and Safety Alert (Qld)⁴⁰ dated 18 September 2018, namely:

5

³⁰ <u>https://www.worksafe.qld.gov.au/___data/assets/pdf_file/0011/82928/form81-application-for-asbestos-</u>assessor-licence.pdf.

³¹ Occupational Health and Safety Regulations 2017 (Vic) reg 4.4.2.

³² Ibid reg 4.4.4

³³ Ibid reg 4.4.5 and 4.4.6.

³⁴ Ibid reg 4.4.7.

³⁵ Ibid reg 4.4.65-4.4.67.

³⁶ Ibid reg 4.4.19.

³⁷ Ibid reg 4.4.21-4.4.24.

³⁸ Ibid reg 4.4.58.

³⁹ Ibid reg 4.4.69.

⁴⁰ <u>https://www.worksafe.qld.gov.au/injury-prevention-safety/alerts/whsq/2018/prevent-exposure-to-silica-for-engineered-stone-benchtop-workers?utm_medium=email&utm_campaign=Safety+alert+-</u>

- a. Engineering controls
 - i. Water suppression of dust: for example direct water feeds on cutting or grinding equipment, and sheet wetting using consistent and adequate water flows over the stone slab.
 - ii. Use local exhaust ventilation (LEV): this includes only using cutting or grinding equipment when the LEV
 - is part of the equipment design;
 - is fitted to the individual equipment where dust is generated;
 - includes an H class dust collector or vacuum;
 - uses designed hoods or extraction machines; and
 - cleaning and maintenance of LEV fitted equipment must not expose workers to RCS.
 - iii. Wet dust slurry management: wet spray must be controlled to prevent it becoming airborne. Spray can be controlled by using guards, plastic flaps and brush guarding. Wet waste, contaminated surfaces and contaminated garments must be effectively managed.
 - iv. Whole of workplace ventilation: for example extraction systems. However silica dust must not be allowed to transfer from where it is generated.
 - v. Cleaning: workplaces must have a dedicated regular cleaning regime. Low pressure water, wet wiping or H class vacuums must be used. Dry sweeping methods must not be used. The cleaning must include areas where silica dust can settle, for example storerooms and yards.
- b. Isolation
 - i. Isolate processes and workers where RCS is generated or handled.
 - ii. Provide physical barriers between different work processes and work areas.
- c. Substitution
 - i. Using materials with no or lower percentage crystalline silica content.
 - ii. Using routers and water jet cutters instead of powered hand tools.
- d. Respiratory protective equipment (RPE)

Unless a workplace has undertaken air monitoring to demonstrate there is no residual risk from RCS, (which research shows is unlikely), an RPE program that complies with Australian Standard AS 1715 must be implemented. The program must include:

- i. provision of suitable, comfortable RPE;
- ii. fit testing;
- iii. a maintenance and repair regime;
- iv. provision of information, training and guidance to workers;
- v. RPE must be reasonably comfortable for the wearer;
- vi. consider providing powered air purifying respirators because of the physical demands of the task and potential for a hot and humid work environment; and
- vii. Workers must wear the RPE whenever they are conducting dust generating processes.

1

<u>Immediate -action -required+to -prevent+exposure+to+silica--for+engineered+stone+benchtop+workers&utm</u> <u>content_Read-the+full-safety+alert&utm_source_www.vision6.com.au</u>

- 2. The granting of a license be subject to annual renewal, with such renewal only to be permitted upon approval by a certified occupational hygienist, who has reviewed practices at the workplace and ensured that such comply with 1(a)-(d) above.
- 3. Upon the granting of a license:

6 2

.

- a. The workshop operator must monitor their worker's health in accordance with those actions identified in the Workplace Health and Safety Alert (Qld) dated 18 September 2018.
- b. The workshop operator must give workers information, training and instruction in accordance with those actions identified in the Queensland Workplace Health and Safety Alert (Qld) dated 18 September 2018.

B Immediate Action

Pending the implementation of points 1 to 3 above in legislation or delegated legislation, persons conducting a business or undertaking must not allow uncontrolled dry cutting, grinding or polishing of artificial or engineered stone bench tops, in accordance with those actions identified in the Workplace Health and Safety Alert (Qld) dated 18 September 2018.

V CONCLUSION

It is indeed noted that the Workplace Health and Safety (Qld) has comprehensively highlighted action required with immediate effect, which we have respectfully mirrored for adoption in the form of a regulatory framework NSW as noted at points 1 to 3 above. This adoption, it is asserted, goes a considerable way to establish a permanent, systemic, failsafe solution to safeguard those working in engineered stone benchtop manufacture from exposure to toxic RCS.

We commend the Queensland Minister for the immediate action release dated 18 September 2018, which comprehensively sets out a framework, which we strongly submit needs to be enshrined in the form of permanent, vigorous regulation across all Australian states, including NSW. This we consider to be best practice to safeguard workers against the risk of toxic exposure levels. It is proposed that, upon the granting of a license to a workshop/business that they be subject to spot inspections by SafeWork NSW to ensure compliance with their licensing obligations. In the event of breach, there must follow an immediate revocation of the workshop's license, together with financial penalty in an amount which ought to deter breaches within the industry at large.

Properly prepared and enacted legislation will ensure that the catastrophic consequences of the asbestos era in Australia are not replicated in the case of respirable crystalline silica. It is vital that the government be on the "front foot" to address the issue and enacting the proposed legislation will give NSW workers enormous comfort in the years ahead. Finally, we thank you for the opportunity for allowing us to communicate with you and should you wish to discuss matters any further, then please feel free to contact Roger Singh (Shine Lawyers National Special Counsel – Dust Diseases).

NATIONAL DUST DISEASE TASKFORCE

SUBMISSION BY ROGER SINGH (SHINE LAWYERS)

1. Introduction

. . ·*_*

Silica dust can be harmful when inhaled into the lungs over a long period of time at low to moderate levels, or short periods at high levels. Such exposure can lead to serious diseases, including silicosis, massive pulmonary fibrosis and lung cancer. It can also lead to increased frequency of tuberculosis and autoimmune conditions, such as scleroderma, rheumatoid arthritis and Sjögren's Syndrome. The Australian exposure standard for airborne crystalline silica is 0.1mg/m³ over an eight-hour day, which is a limit based on preventing silicosis and lung cancer. Silica dust is prevalent in many Australian occupations including: stone masonry, tunnelling, mining, brick manufacture, sand blasting and mineral processing.

Over the past two years we have seen a surge of silica induced injuries in Australia; in particular within the stone mason industry with the advent of engineered stone which contains in excess of 90% silica content. As a consequence of unsafe work practices, such as dry cutting, workers have been exposed to high levels of silica with resultant disease diagnosis in the form of silicosis and/or autoimmune compromise.

Outside the stonemason industry Shine Lawyers dust practice has seen and continues to see workers with silica induced injury from the mining sector, tunnelling, brick manufacture and mineral processing. In all instances the injury has arisen due to ineffective measures to protect against hazardous materials, unsafe work practices and inadequate exposure standards.

The purpose of this submission is to advance solutions to the silica induced injury crisis which is now sweeping the nation, it is a national crisis which merits a national solution.

2. Hazardous materials and product ban

Engineered stone is a fashionable man-made product which flooded the Australian market in the late 1990s/early 2000s and quickly became the product of choice for domestic kitchen and bathroom benchtop installation.

It is evident that this man-made or engineered stone contains in excess of 90% silica content. Up until the late 1990s/early 2000s, in the absence of this stone, kitchen and bathroom bench top installation was still possible with alternative less hazardous products. It is still possible to use alternative products for bench top installation whereby a banning of engineered stone in Australia is a

conceivable solution. We live in an innovative society whereby products are capable of being manufactured with negligible silica content and to this end why the need for engineered stone to remain a product option in the Australian marketplace?

N 6

Quite simply put by abolishing engineered stone, whereby this product no longer enters the country, workers and tradies are guaranteed to be free of the hazard of lethal silica exposure associated with the cutting and fabrication of this product

It is acknowledged that an outright ban may not receive the support that it deserves or if supported some delay is anticipated until the product is phased out and completely extinguished from the Australian marketplace. Consequently, a form of stringent industry regulation is required.

3. Unsafe work practices and need for rigorous regulation of the stone mason industry

It is proposed that the stone mason industry be regulated within a legislative framework specific to engineered stone workshops. Any work shop that engages in the handling, cutting, and fabricating of engineered stone must be licensed to do so (see below).

It is proposed that legislation should direct for the following to be discharged, in order for a stone masonry workshop to be entitled to operate:

- The cutting and fabrication of engineered stone must be carried out by only a licensed workshop, which to be licensed must demonstrate adherence to those actions identified in the Workplace Health and Safety Alert (Qld) dated 18 September 2018, namely:
 - a. Engineering controls
 - i. Water suppression of dust: for example direct water feeds on cutting or grinding equipment, and sheet wetting using consistent and adequate water flows over the stone slab.
 - ii. Use local exhaust ventilation (LEV): this includes only using cutting or grinding equipment when the LEV
 - is part of the equipment design;
 - is fitted to the individual equipment where dust is generated;
 - includes an H class dust collector or vacuum;
 - uses designed hoods or extraction machines; and
 - Cleaning and maintenance of LEV fitted equipment must not expose workers to RCS.
 - iii. Wet dust slurry management: wet spray must be controlled to prevent it becoming airborne. Spray can be controlled by using guards, plastic flaps and brush guarding. Wet waste, contaminated surfaces and contaminated garments must be effectively managed.

- iv. Whole of workplace ventilation: for example extraction systems. However silica dust must not be allowed to transfer from where it is generated.
- v. Cleaning: workplaces must have a dedicated regular cleaning regime. Low pressure water, wet wiping or H class vacuums must be used. Dry sweeping methods must not be used. The cleaning must include areas where silica dust can settle, for example storerooms and yards.
- b. Isolation

. .

- i. Isolate processes and workers where RCS is generated or handled.
- ii. Provide physical barriers between different work processes and work areas.
- c. Substitution
 - i. Using materials with no or lower percentage crystalline silica content.
 - ii. Using routers and water jet cutters instead of powered hand tools.
- d. Respiratory protective equipment (RPE)

Unless a workplace has undertaken air monitoring to demonstrate there is no residual risk from RCS, (which research shows is unlikely), an RPE program that complies with Australian Standard AS 1715 must be implemented. The program must include:

- i. provision of suitable, comfortable RPE;
- ii. fit testing;
- iii. a maintenance and repair regime;
- iv. provision of information, training and guidance to workers;
- v. RPE must be reasonably comfortable for the wearer;
- vi. consider providing powered air purifying respirators because of the physical demands of the task and potential for a hot and humid work environment; and
- vii. Workers must wear the RPE whenever they are conducting dust generating processes.
- The granting of a license be subject to annual renewal, with such renewal only to be permitted upon approval by a certified occupational hygienist, who has reviewed practices at the workplace and ensured that such comply with 1(a)-(d) above.
- 3. Upon the granting of a license:
 - The workshop operator must monitor their worker's health in accordance with those actions identified in the Workplace Health and Safety Alert (Qld) dated 18 September 2018.
 - b. The workshop operator must give workers information, training and instruction in accordance with those actions identified in the Queensland Workplace Health and Safety Alert (Qld) dated 18 September 2018.

4. The work shop will be subject to randomised "spot checking" by an independent Work Place Health & Safety organisation during the course of the year to ensure compliance. Such "spot checking" to occur in the absence of advanced notification to the subject work shop.

4. Manufacturer and supplier responsibility

Shine Lawyers dust diseases practice has observed that in many instances manufacturers and suppliers of engineered stone have displayed poor product stewardship whereby there has been a failure to adequately warn those who may cut and fabricate their product of dangers associated with silica dust.

It is proposed that suppliers and manufacturers be regulated within a legislative framework whereby they shall at all times only be permitted to sell and supply their product to a licensed work shop; such as that licensed in accordance with criteria noted at 3 above. The supplier/manufacturer must at the time of supply / retail sight the work shop's license to be satisfied that the license is current. In the event a current license is not produced by the work shop the supplier/manufacturer must not supply. In the event of any breach on the part of the supplier/manufacturer a penalty will be imposed including permanent prohibition on the supplier/manufacturer to engage in any future supply/retail of their product in Australia. Additionally, a significant financial penalty will be imposed in an amount that will deter other entities from engaging in similar adverse practice

5. Silica exposure standard

The Australian exposure standard for airborne crystalline silica is currently 0.1mg/m³ over an eighthour day, which is a limit based on preventing silicosis and lung cancer. It is submitted that the standard is far too high and must be reduced to a lesser level to better safeguard workers in occupations and industries where silica dust is prevalent.

Shine Lawyers dust diseases practice has observed that where employers have purportedly adhered to the standard of 0.1mg/m³ workers have still been seen to develop silicosis. By way of best practice the silica dust exposure level must be reduced to 0.02 mg/m³ thereby affording workers an enhanced safeguard against developing silica induced injury. It is recognised that that the US has cut its limit to 0.025 thus the reduction to 0.02 is in keeping with appropriate action embraced in comparable overseas jurisdictions.

The suggested reduction by work safe Australia of 0.05 mg/m³ in three years is unsatisfactory and must be reviewed with agreed reduction to 0.02 mg/m³ which would make Australia a world leader in silica dust safety.

6. Other matters

. .

It is acknowledged that the following matters are those for consideration of individual states and territories nonetheless reference is made to the same on the basis that these topics merit attention.

(a) Autoimmune disease - recognition as proclaimed diseases

It is well recognised that in addition to lung injury in the form of silicosis autoimmune conditions have long been recognised as being associated to silica exposure. It is extremely rare to see a diagnosis of scleroderma, rheumatoid arthritis, lupus and Sjögren's syndrome in males; particularly those in their twenties, thirties, forties and fifties.

Shine lawyers dust diseases practice in the past eighteen months has experienced no less than ten cases of male workers with autoimmune compromise. In these instances all of these workers encountered occupational exposure to silica dust either as stone masons or in other well recognised silica associated occupations. In a number of these instances these workers have developed silicosis in addition to autoimmune disease.

Silicosis is acknowledged in most states and territories as a proclaimed disease under the requisite Workers Compensation legislation. For example in Victoria silicosis is duly listed in the Workers Compensation Act 1958 Third Schedule 3 as a proclaimed disease under the act.

With reference to the foregoing Shine Lawyers dust practice has experienced perverse situations where the silicosis injury is readily accepted by the work cover insurer for statutory compensation purposes but the autoimmune disease caused by the very same dust in the same occupation is not. This has resulted in significant time and expense in compelling the worker to prove the autoimmune injury is resultant from the same occupational exposure that may have caused the silicosis notwithstanding the fact the association of such diseases to silica are well recognised.

Accordingly it is submitted that relevant workers compensation legislation must be duly amended in each state and territory whereby in the same way that silicosis is acknowledged so are autoimmune conditions as proclaimed diseases under the act. It is just and reasonable for such amendment to be made to prevailing legislation.

(b) Autoimmune disease - and statute of limitations

In a similar vein to matters canvassed at 7(a) above in most states and territories by dint of amendment to the limitations of actions legislation silicosis and other prescribed lung related diseases are exonerated from time limitations within which a claim for compensation must be brought. For example the *Limitations of Actions Act 1974 s11 (2)* stipulates that a right of action relating to personal injury resulting from a dust related condition is not subject to a limitation period under an Act or rule of law. A similar provision exists in the Victorian jurisdiction under the *Limitations of Actions Act 1978 s11 (2)* stipulates that a right of actions are exampled under an Act or rule of law. A similar provision exists in the Victorian jurisdiction under the *Limitations of Actions Act 1958 sect 27B (2) (d).*

The very same silica dust which may result in lung related injury exonerates such injuries from the statute of limitations but does not so for autoimmune conditions.

Shine lawyers dust diseases practice has in the past 18 months experienced perverse circumstances where a worker has sustained injury in the form of both silicosis and autoimmune compromise i.e. rheumatoid arthritis or scleroderma where part of the claim, namely lung injury, is free of statute of limitations impediment but the autoimmune condition is not. This has compelled the worker at great expense to take urgent steps to ensure measures are discharged to safeguard the autoimmune injury component of the claim to avoid it falling foul of time limitation periods.

• , . ,

With reference to the foregoing such imposition on the worker is unjust and unreasonable. To this end it is incumbent on all states and territories to amend prevailing legislation to bring onerous time limitation laws pertaining to dust related autoimmune injuries in line with limitation laws pertaining to silicosis.

7. Conclusion

It is submitted that the matters referred to and articulated above will go some way to eradicating hazardous silica dust exposure and thereby resulting in safer work places for stone masons and workers in other silica associated occupations.

Additionally other matters that have been referenced will allow injured workers access to justice and compensatory entitlements with greater ease.

All matters captured in this submission I was afforded the opportunity to convey at the National Dust Disease Task Force forum in Melbourne on 28 October 2019 however if any further input is required from me in writing or by way of face to face meeting I will be happy to oblige.

Roger Singh (Shine Lawyers – National Special Counsel – Dust Diseases)

8 November 2019

National Dust Disease Taskforce second phase of open consultation response

Introduction

Shine Lawyers, as well as other stakeholders, provided oral and written submissions to the National Dust Disease Taskforce (NDDT) in November 2019 as part and parcel of investigation driven solutions to protect workers by reducing and/or eliminating occupational dust exposure in Australian workplaces.

Following stakeholder contribution, the NDDT produced interim advices and findings together with early recommendations in December 2019. Subsequent thereto, Shine Lawyers and other stakeholders have had an opportunity to provide oral feedback at targeted consultation forums.

NDDT 2020 Interim Report and responses

We welcome the interim advices and initial findings of the NDDT and support the continuation of investigation and implementation of solutions at a national level to address preventable occupational dust diseases, such as silicosis, within Australian workplaces.

The early recommendations are noted and supported and it is pleasing to see that the majority of Australian jurisdictions have now reduced workplace exposure to 0.05 milligrams/m3 respirable crystalline silica (RCS). In keeping with other stakeholders, we continue to support a further reduction in the national standard to 0.02 milligrams/m3 RCS.

It is respectfully submitted that although the December 2019 interim report commendably promotes: targeted education; understanding of dust diseases; research and disease detection it however fails to advance robust measures at the 'coal face' to protect workers from injurious dust exposure within their immediate work environments.

We maintain the views expressed in Shine Lawyers written submission dated 8 November 2019 that higher risk industries must be targeted with a view to eliminating engineered stone products. It is acknowledged that an outright ban may not receive the support that it deserves or if supported some delay is anticipated until the product is phased out and completely extinguished from the Australian marketplace. Consequently a form of stringent industry regulation is required.

With reference to the foregoing, it is considered that a proportionate response, to curtail severely injurious silica exposure associated with engineered stone, must take the form of rigorous regulation of the stonemason industry. In this regard, we reiterate the regulatory framework in the form of a licensing regime is a solution that if adopted at a national level will go some considerable way to protect workers from hazardous silica dust exposure¹.

It is submitted that a focus on robust practical solutions is necessary to protect workers against the hazards of occupational exposure such as RCS. In keeping with the views set forth in Shine Lawyers' submission dated 8 November 2019 and that of other stakeholders, consideration is required to an approach to ban the importation of engineered stone and also higher regulatory demands of the stonemason industry, such as the imposition of the aforementioned licensing regime. Furthermore suppliers/manufacturers of engineered stone must be regulated within a legislative framework whereby they shall at all times only be permitted to sell or supply their product to a licensed workshop; such as that licensed in accordance with Shine Lawyers submission dated 8 November 2019².

A recent Spanish study of engineered stone silica exposed workers³ has established that artificial stone silicosis rapidly advances to progressive massive fibrosis (PMF) even following exposure cessation, and a significant percentage of patients experience a very rapid decrease in lung function. This study

³ "Artificial Stone Silicosis - Rapid Progression Following Exposure Cessation " CHEST Journal published 18 June 2020 - Antonio León-Jiménez, PhD, Pulmonology, Allergy and Thoracic Surgery Department, Puerta del Mar University Hospital, Avda Ana de Viya 21, 11009 Cádiz, Spain



¹ NDDT submission by Roger Singh of Shine Lawyers, paragraph 3(1) - 3(4) dated 8 November 2019

² NDDT submission by Roger Singh of Shine Lawyers paragraph 4 ,dated 8 November 2019

amplifies the real potential severity of disease progression from silicosis to PMF amongst engineered stone workers and thereby underlies the necessity for robust practical solutions such as those aforementioned.

Conclusion

We welcome and support the NDDT's early recommendations and findings however in keeping with the matters noted herein, it is submitted that a greater emphasis on prevention with the implementation of robust practical solutions is required. Consequently a focus on the regulation of engineered stone work places is encouraged for such action is an imperative and will go some considerable way to safeguard the health and well-being of Australian workers.

Roger Singh (Shine Lawyers National Practice Leader - Dust Diseases Litigation)

10 November 2020

SHINE LAWYERS SUBMISSION IN RESPONSE TO THE NATIONAL DUST DISEASE TASK FORCE CONSULTATION DOCUMENT

Introduction

Shine Lawyers provided oral submission at a face to face meeting at the National Dust Diseases Task Force (NDDT) open forum on 28 October 2019. Subsequent thereto Shine Lawyers provided a written submission dated 8 November 2019 (as attached for ease of reference) with proposed solutions to eradicate the hazards of silica dust within Australian work places. Additionally, on the 10 November 2020, Shine Lawyers provided a written response concerning the NDDT second phase of open consultation (as attached for ease of reference).

In Shine Lawyers past oral and written submissions emphasis was placed on a product ban with respect to engineered stone which is in keeping with action that was taken in the 1980s to eliminate asbestos from occupations and products to safeguard workers, their families and the community at large. Additionally the necessity to ensure the implementation of effective control measures to significantly reduce / eliminate hazardous dust exposure by way of a licensing framework was a point of focus throughout Shine Lawyers submissions.

It is of note and some concern that the NDDT consultation draft vision, strategies and priority actions –paper April 2021 (the April 2021 paper) falls short of supporting a product ban of engineered stone which in recent years has been associated with the increased incidents of occupational silica induced injury throughout Australia. It is of note however that the NDDT lists the development of a licensing framework to regulate silica producing industries as a priority action.

Product ban (engineered stone)

As stated in Shine Lawyers' submission dated 8 November 2018 (as attached) under sub-heading '<u>Hazardous materials and product ban'</u> good reason was given as to why a product ban is highly desirable. Additionally, other robust measures must be considered pending a product ban (of engineered stone) or in the event product abolition does not garner the support that it deserves. Such measures were outlined in Shine Lawyers' said submission of 8 November 2019 and further reiterated in Shine Lawyers written response of 10 November 2020 (as attached).

It is noted that the NDDT has referenced the development of a licensing framework which as noted was a major focus of Shine Lawyers oral and subsequent written submission dated 8 November 2018. The NDDT is commended for its due consideration in this regard however it is now imperative that a consistent approach is adopted on the roll out of a national licensing framework. The approach in its adoption and implementation must be consistent across all state and territory jurisdictions.

In the event a licensing framework should fail to avert incidents of silica induced injury then those industries where product abolition is feasible, such as engineered stone, a ban must be investigated and implemented.

Licensing framework

It is of note that Shine Lawyers have been at the forefront of advocating for a licensing framework, in particular of stonemason workshops .Shine Lawyers first circulated this proposal by way of submission to the relevant state and federal members of parliament as long ago as mid-2018. It is asserted that it is not unrealistic for a licensing framework to be extended beyond stonemason

workshops and thereby to other silica producing industries and occupations. An approach such as this will go some way to producing a permanent systemic failsafe solution against hazardous exposure to silica dust.

The roll out of a licensing regime at a national level is vital with the respect to the prevention of hazardous dust exposure; there must be prevention "at the coal face". In the absence of a stringent licensing framework initiatives such as: raising awareness, provision of better support to workers and families and capturing data are all but hollow gestures.

The NDDT April 2021 paper is unclear as to the practical considerations, criteria and mechanism by which a licensing framework will be formulated and implemented. Shine Lawyers position is that any framework must be effective in eliminating exposure to hazardous dust levels and in this regard a rigorous legislated framework is required embodying key features such as those set forth in Shine Lawyers submission dated 8 November 2018 (see attached at 3 page 2).

A. Vision

Q1: Does the Taskforce's Vision resonate with you and your agency? If not, what else should be captured in the Vision?

It is Shine Lawyers position that the desired outcomes cannot be reached in the absence of a total abolition of engineered stone from Australian workplaces/occupations. However in the absence of support for product ban the implementation of rigorous measures such as a licensing framework in keeping with that outlined in Shine Lawyers said submission of 8 November 2019 may go some way to eliminating hazardous dust exposure in Australian work places.

To ensure the effectiveness of a licensing framework on a national level, it is imperative that each state and territory must implement a regime that compels license holders to demonstrate compliance with installation and implementation of effective engineering controls such as those set forth in Shine Lawyers' said 8 November 2019 submission. This is a fundamental feature without which concepts such as awareness, education, and monitoring and data collection are all but hollow gestures.

It is Shine Lawyers position that control measure criteria as set forth in its submission (as attached) must be embraced as part and parcel of a licensing framework to eliminate hazardous exposure levels within Australian work places. As aforementioned should such measure fail to avert incidents of silica induced injury then product abolition where feasible must be investigated and acted upon. To this end a reasonable period of time must be set to monitor the effectiveness or otherwise of a licensing framework in order to determine necessity to advance to product ban; in particular abolition of engineered stone.

Q2: Will the Vision drive a collective focus on the critical changes required? If not, what else needs to be included to inspire and drive collective effort?

The answer provided at Q1 is adopted by way of response to Q2.

It is imperative that each and every state and territory adopts a robust and consistent approach with respect to the roll out of a licensing framework within the stonemason industry and other silica producing workplaces. The prevailing national crisis merits a uniform response across all states and territories.

With reference to the foregoing Shine Lawyers proposals as set forth in the said 8 November 2018 submission must be embraced by all states and territories. The NDDT's final report must emphasise a strong call for a consistent and uniform approach to the implementation of a licensing regime. Furthermore emphasis on a product ban is required should measures such as a licensing regime fail to avert incidents of silica induced injury diagnoses.

Q3: Is the suggested timeframe for change achievable? If not, what timeframe do you suggest and why?

Shine Lawyers position is that the proposed timeframe is excessive.

It is submitted all measures and initiatives are capable of being rolled out with expedition including the implementation of a licensing regime. On the basis of the health and wellbeing of Australian workers being at stake it is submitted that the subject issue must be placed as a priority on the political agenda and all initiatives implemented with far greater expedition than the flagged time frame.

B. Strategies

Q1 – Q6:

It is of course imperative that there be a national coordinated approach on the basis that the occupational silica related disease issue is a national crisis whereby a uniform national response is merited.

Concepts such as awareness and education are commended but in the absence of effective control measures to reduce/eliminate silica dust these concepts are, as previously stated, no more than a hollow gesture.

It is agreed that a nationally consistent evidence based health screening/surveillance process is required for presently there is a lack of consistency in approach from one state/territory to the next. Such process must be freely available to workers on a private and confidential basis and easily accessible.

Treatment and occupational research is commended however beyond that it is imperative that a national silicosis register is implemented so as to collect data of diagnoses numbers which, *inter alia will* assist governments to best develop policies to deal with and respond to incidents of silica related diseases.

C. Priority actions

Q1 – Q7:

In keeping with all that stated in response to vision and strategies above there is a necessity to ensure effective regulation of silica dust .A licensing framework akin to that first advocated for by Shine Lawyers as of mid-2018 if adopted at a national level may go some way to eliminating hazardous dust exposure in Australian work places. The NDDT is moving in the right direction with its listing of a licensing framework as a priority action. It is vital that such framework is rolled in the form of rigorous regulation with effective criteria in keeping with that proposed in Shine Lawyers said 8 November 2018 submission.

With reference to the foregoing it is asserted that in the absence of the measures referenced in the preceding paragraph, the right recommendations and desired outcomes will not be achieved

Insofar as the development of a licensing regime is concerned, it is imperative that there be a collaborative approach involving key stakeholders in formulating a framework which lays down stringent qualifying criteria underpinning a robust approach to eliminate hazardous work place exposure. The granting of a license will only be permitted in the event the criteria as set forth in the said Shine Lawyers submission of 8 November 2019 is met. Key stakeholders must include: occupational hygiene, occupational physicians, and medical front line in the discipline of respiratory and rheumatological medicine, engineering and WPHS agencies (this list is not exhaustive)

Other matters

Although not part and parcel of the NDDT remit/consultation it is understood that the NDDT has nonetheless been requested to consider anomalies that currently exist to the detriment of workers seeking to access compensation through statutory and common law process. Such matters Shine Lawyers alluded to in its said submission dated 8 November 2018 (see attached).

With reference to the foregoing Shine Lawyers considers that the following matters necessitate being brought into focus and acted upon to eliminate procedural and evidential unfairness in accessing statutory and common law compensation entitlements. In this regard the need for parity is evident in the context of the treatment of lung induced injury in contrast to silica induced autoimmune conditions. Furthermore, statute of limitations impediments require consideration in the context of a prevailing dichotomy in the application of time limitation laws to the detriment of workers in bringing claims for compensation.

• Autoimmune conditions – be deemed as proclaimed diseases under Workers Compensation legislation

It is evident that silica dust exposure is causative of injury beyond lung related conditions, such as silicosis, with the association of autoimmune diseases readily recognised as silica induced conditions.

Unlike silicosis the current state of the law, in terms of statutory Workers Compensation schemes, across various Australian jurisdictions fails to acknowledge autoimmune conditions such as rheumatoid arthritis and scleroderma as proclaimed diseases/injuries under the relevant Workers Compensation Act. That is failure to deem the disease as one being due to the nature of employment at such place or in such occupation where silica dust exposure has been of prevalence.

Since 2015 Shine Lawyers have been at the forefront of acting for workers in successfully proving causal connection between silica exposure and autoimmune disease .In light of the numerous outcomes achieved by Shine Lawyers the issue of causation is now well known. To this end it is imperative that such diseases are now readily accepted as proclaimed diseases under Workers Compensation schemes in all Australian states and territories. In the absence of deeming such diseases as proclaimed diseases under the Act workers are placed in the grossly unfair position of being compelled, at great monetary cost and toll on well-being due to stressors of the legal process, to prove causation when the issue of causation, by virtue of numerous claims now successfully run is well known.

Statute of Limitations considerations

Additionally Shine Lawyers calls for amendment to the statute of limitations in various states and territories so as to avoid the untenable position of lung induced injuries and autoimmune conditions being subject to different time limitation periods.For example in Queensland a silica induced lung injury is subject to no time limitation within which to bring a court based claim for compensation whereas an associated silica induced autoimmune injury is. Consequently a worker who has been

exposed to the one toxic agent, namely silica, with resultant injury in the form of silicosis and autoimmune injury, such as rheumatoid arthritis or scleroderma, is placed in the absurd position where the lung injury is free of any time limitation impediment but the concurrent autoimmune injury is not. The flow on effect compels the worker at great legal expense and associated stress and turmoil to take urgent action within a very limited period of time, to overcome numerous complex evidential and procedural hurdles to commence court proceedings to safeguard the autoimmune injury claim. In the absence of such urgent action the autoimmune injury compensation claim stands to be forever lost however the lung injury is exonerated from such travesty.

In Victoria the current state of the law subjects the worker to two different time limitation impositions where there is causative dust exposure both pre and post 12 November 1997. In this instance, an injury such as silicosis is considered to be caused by all occupational exposures to silica dust where such exposure may encompass both pre and post 12 November 1997. Consequently a worker afflicted by pre 12 November 1997 exposure is compelled to bring a claim with respect to his/her injury within three years of the 'date of incapacity' if that incapacity arises post 12 November 1997. However, insofar as causative exposure post 1997 is concerned the worker's claim is governed by a six year limitation period. Accordingly with respect to post November 1997 exposure, where such exposure contributes to same injury as the pre 1997 exposure, the worker must bring common law proceedings within six years of the date of diagnosis or discoverability. It follows that it is onerous and untenable to subject workers to the complication and expense of addressing and navigating two separate limitation periods for one singular injury. This anomaly must be rectified and in this regard it is submitted that an abolition of the statute of limitations with respect to dust related injuries is merited.

Conclusion

The NDDT is commended for its intentions and April 2021 consultation document however it is imperative that any licensing framework must take the form of robust and rigorous regulation of silica producing industries .In the absence of effective control measures concerning silica exposure the desired outcomes will not be achieved. In this regard the measures and criteria set forth in Shine Lawyers submission of 8 November 2018 must be embraced. Should rigorous regulation in the form of a licensing framework fail to avert diagnoses then it is imperative that other solutions such as the abolition engineered stone is investigated and implemented.

Additionally there is need for due consideration to be given to embracing autoimmune injuries as proclaimed conditions under state and territory workers compensation legislation. Furthermore the need to amend onerous and unjust statute of limitations impediments with respect to silica related diseases is called for; in this regard an abolition of archaic time limitation laws that currently prevail is merited.

Roger Singh (Shine Lawyers – National Practice Leader – Dust Diseases Litigation)

27 April 2021

Licence scheme to protect engineered stone workers

Last updated 22-11-2021

Businesses working with engineered stone will require a licence by 15 November 2022 under new regulations to help protect workers from exposure to deadly silica dust.

From May next year, the Occupational Health and Safety Amendment (Crystalline Silica) Regulations 2021 also introduce new duties for businesses across a range of industries that work with other materials containing silica – including quarrying, construction and tunnelling.

The regulations will also extend the ban, first made in 2019, on uncontrolled dry-cutting, grinding and polishing of engineered stone, and prohibit the use of compressed air for cleaning and untreated water to suppress dust.

Engineered stone is commonly used for kitchen and bathroom benchtops. When it is cut, ground or polished workers may be exposed to respirable silica dust, which can cause deadly lung and respiratory diseases – including silicosis.

Silicosis is caused by breathing in tiny silica particles which can cause incurable scarring of the lungs. In severe cases it can be fatal or patients may need a lung transplant.

WorkSafe CEO Colin Radford said licensing the use of engineered stone would ensure the necessary safety measures were in place to protect workers.

"Silicosis is a serious disease that can strike down young workers with devastating consequences for them and their families," Mr Radford said.

"This year alone, WorkSafe has accepted 59 claims from workers who have developed silica related disease as a result of workplace exposure and sadly, four people have lost their lives. This is unacceptable.

"This licence scheme, together with a permanent ban on uncontrolled dry cutting of engineered stone, will help prevent more workers suffering due to silica exposure."

Licence holders must comply with new duties, including providing:

- · Safety training and instruction for workers, as well as information to job applicants
- · Health and atmosphere monitoring reports to Worksafe Victoria



Everyone | Every workplace

• Departing employees with a record of their work with engineered stone and advice about regular health assessments

Engineered stone suppliers will only be able to supply licenced businesses and must keep records.

From 15 May 2022, businesses working with other materials containing silica must identify and document any high-risk silica work and the measures used to control those risks, and provide safety training and instruction to employees and information to job applicants who may engage in this work.

The regulations include infringements or court-imposed fines of between 1.2 and 100 penalty units for an individual or six and 500 penalty units for a body corporate apply.

Licence applications for working with engineered stone are now open and can be lodged online at:

• Engineered stone licence

https://www.worksafe.vic.gov.au/engineered-stone-licence

For more information about crystalline silica:

• Changes to protect Victorians working with crystalline silica

https://www.worksafe.vic.gov.au/changes-protect-victorians-working-crystalline-silica

Crystalline silica

https://www.worksafe.vic.gov.au/crystalline-silica

Media enquiries

Subscribe to receive media releases by email



THE CONVERSATION

Academic rigour, journalistic flair



Shutterstock

Banning artificial stone could prevent 100 lung cancers and 1,000 cases of silicosis, where dust scars the lungs

Published: July 12, 2022 6.03am AEST

Renee Carey Senior Research Fellow, Curtin University

in Fritschi Professor of Epidemiology, Curtin University

Silica dust is a very fine dust produced when products such as bricks, concrete and pavers are cut or drilled. Artificial stone, which is used mainly for kitchen benchtops, is a particularly potent source of silica dust.

Breathing this dust into the lungs can cause severe long-term damage. This can result in breathing difficulties, scarring of the lungs (silicosis) and lung cancer.

In our recently published report, we estimate that without action, Australian workers would develop more than 10,000 future lung cancers and almost 104,000 silicosis cases during their lifetime due to their exposure to silica dust. This is around 1% of all future lung cancers in the Australian adult population.

However, banning artificial stone would reduce silica exposure and could prevent 100 lung cancers and almost 1,000 silicosis cases over the lifetime of these workers.

Read more: Explainer: what is silicosis and why is this old lung disease making a comeback?

Re-emergence of an old disease

Silica dust is a serious hazard in Australian workplaces. Around 7% of Australian workers are at risk of breathing it in. Exposure is most common in miners and construction workers.

For the last 60 years, silicosis was very rare in Australia. Due to the increased use of artificial stone, we are now seeing a re-emergence of this terrible disease.

In response to the resurgence of silicosis, the Australian government set up a taskforce to improve the health and safety of those working with silica dust. Its final report, from June 2021, recommended ... urther analysis on how best to protect artificial stone workers.

This is now under way, with Safe Work Australia releasing a regulatory impact statement for consultation. This statement looks at a number of options to reduce exposure to silica and the cost of these over the next ten years.

Safe Work Australia concluded these measures would only need to save about five people a year from silicosis in order for these options to be cost effective.

50

A/Prof Jane Bourke N N N N

Better protection needed for workers against this deadly dust \bigcirc as well as more research to understand and treat #silicosis

Workers diagnosed with #silicosis after being exposed to silica dust are calling for urgent action

abc.net.au

'It will kill them': Silicosis cases rising in Australia with more industries im... More than 500 stonemasons have been diagnosed with silicosis nationally, but experts say it's 'likely just the tip of the iceberg', with ...

 (\mathbf{i})

11:56 AM · Jun 20, 2022

💛 10 🔍 Reply 🗘 Share

Explore what's happening on Twitter

While this is a good start, there's scope to do much more. Banning artificial stone is among the recommendations suggested by the taskforce but not currently supported by government and not 'eing considered by Safe Work Australia.

Assessing the harm

To estimate the harm caused by silica dust at work, we used a method which calculates how many additional disease cases would occur in workers exposed to silica dust in one year – in this case, the year 2016.

We used past exposure surveys and recent reports from New South Wales and Victoria to estimate how many workers were exposed to silica dust nationwide.

Then we modelled how many lung cancers and silicosis cases would occur during the lifetimes of these workers.

We then looked at possible ways to reduce exposure to silica dust, including wet cutting, reducing /orker access to dusty areas, using good quality and well-fitted respirators, as well as banning artificial stone.

While this modelling isn't yet published in a peer-reviewed journal, it has been peer-reviewed by others in the field.

Reducing the harm

We found banning artificial stone could prevent 100 lung cancers and almost 1,000 silicosis cases.

Read more: Engineered stone benchtops are killing our tradies. Here's why a ban's the only answer

We also looked at other control measures which could be implemented in the interim.

Setting up exclusion zones around areas where artificial stone is cut, using well-fitted respirators, wetting artificial stone while cutting it, and using on-tool dust extraction while cutting artificial stone could prevent cases of lung cancer and silicosis, but not as many as a complete ban.

Man cuts stone.

Well-fitting respirators can reduce the risk. Shutterstock

Unfortunately, a ban on silica dust in other industries such as mining isn't possible. However, exposure can be reduced. Stopping workers from entering areas near crushers on mine sites would prevent 750 lung cancers and almost 7,500 silicosis cases.

If we were able to reduce exposure in the mining industry to that experienced by the general population, we could save more than 2,300 lung cancers and over 20,000 silicosis cases.

Reducing silica dust would save lives

Overall, ensuring compliance with engineering controls and respiratory equipment could prevent more than 400 workers from developing two terrible diseases.

These cases can only be prevented if there is 100% compliance with control measures. This is a level of compliance much higher than what we're currently seeing in Australian workplaces.

A licensing system for artificial stone businesses such as that underway in Victoria might go some way to improving compliance, but the effects of this remain to be seen.

Read more: Renovating your kitchen? Help Australia's tradies avoid silicosis by not choosing artificial stone

However, if we banned artificial stone, we could save up to 700 more young workers from developing these diseases. If we tried to eliminate silica dust exposure in other industries, we could prevent even more disease.

Clearly, much more needs to be done to protect our workers from these ultimately preventable lung diseases.

Roger Singh

From: Sent: To: Subject: Attachments: Roger Singh Thursday, 11 July 2019 10:45 AM

A Need for Laws Protecting Stone Masons against Engineered Stone Silica Dust To the Honourable Grace Grace MP - A Need for Laws Protecting Stone Masons against Engineered Stone Silic Dust.pdf; DOC112118-11212018144905.pdf

Dear the Honourable Greg Hunt MP,

I refer you to my below communication with The Hon Kelly O'Dwyer MP from last October and my attached submission, which details concerns associated with adverse work practices within the stone mason industry. This issue is a national crisis, which I have witnessed emerge over the past two years in the work that I undertake in my dust diseases practice.

Although I received a response to my below communication from Adrian Breen (Branch Manager – Work Health and Safety Policy Branch) as attached, I respectfully consider the approach and initiatives noted to be insufficient to tackle the severity of the stone mason silicosis crisis that has emerged. To this end I ask that you consider my below email attached submission, which I believe goes some considerable way to ensuring a systemic fail safe solution to protect our country's stone masons from the scourge of toxic silica exposure.

In light of the abundance of diagnoses which are resulting from adverse work practices, the issue is one which I strongly believe needs to be placed as a priority on the political agenda. To this end, it would be appreciated if you could give this matter your urgent attention extending to the consideration of my submission, with a view to implementing a coordinated national response comprising of rigorous regulation of the industry. Such measures are imperative to safeguard against ongoing toxic exposure and further diagnoses which will result unless prompt and robust action is taken at a national level.

I thank you in anticipation of your reply and I will be happy to meet with you to further discuss and explore a solution to this national epidemic.

Yours faithfully,

Roger Singh

To:

From: Roger Singh Sent: Wednesday, 10 October 2018 7:18 PM

Subject: A Need for Laws Protecting Stone Masons against Engineered Stone Silica Dust

Dear The Hon Kelly O'Dwyer MP

My name is Roger Singh, I am the National Special Counsel of Shine Lawyers' Dust Diseases Practice.

I have practiced in the specialised area of dust diseases litigation for over twenty years, acting on behalf of workers who have developed diseases attributable to asbestos, respirable crystalline silica (RCS), coal dust and other toxic agents. Over the past 12-18 months, I have witnessed a pattern of workers coming forward from the stone mason industry with respiratory diseases; in particular with accelerated silicosis and moreover progressive massive fibrosis secondary to silicosis. I continue to meet with and hear from stonemasons who have not only developed respiratory disease but also autoimmune diagnoses including scleroderma, rheumatoid arthritis and srojen's syndrome. The number of diagnosed workers emerging from the stone mason industry ,where unregulated cutting of engineered stone which comprises 90-95% silica content, is alarming, Some of these diagnosed workers with respiratory and/or autoimmune disease are in their twenties , thirties and forties.

Over the past four months I have sought to highlight the concerns that I raise above drawing upon experiences I have encountered ,and continue to encounter, in my dust diseases practice with workers from the stone mason industry. The scourge of asbestos where we continue to see workers from a bygone era still presenting with asbestos related diseases is not far from mind, and with the toxicity of engineered stone we cannot allow another asbestos type legacy to emerge amongst Australian workers.

On the above basis I have communicated with all state and territory ministers throughout Australia some of whom I have met with face to face or spoken with to share my concerns. To this end I draw your attention to the attached submission addressed to the QLD minister which details concerns and also proposes a vigorous regulatory framework that might be adopted to extinguish adverse work practices and risk of dust related injury. I have circulated a similar submission to all other ministers nationwide and I am maintaining an ongoing dialogue with all states and territories with a view to pressing for the implementation of much needed regulation.

During the course of ministerial discussions I have had, and from my own experiences within my practice, it is recognised that the issue is one that is impacting workers nationwide. Consequently I respectfully suggest that it is appropriate for there to be a coordinated national response, at federal level, which serves to implement vigorous regulation of the industry with a systemic failsafe solution. The attached form of submission is a proposed way forward and I kindly request that you consider the same and confirm if the federal government is in a position to embrace the basis of the proposed solution therein to ensure that Australian stonemasons are permanently safeguarded from adverse work practices and risk of life threatening injury.

I thank you in anticipation of your reply and should you wish to meet with me or speak with me further then I will be happy to accommodate you.

Yours Faithfully Roger Singh (National Special Counsel – Dust Diseases)

Roger Singh | National Special Counsel - Dust Diseases



From: Roger Singh Sent: Wednesday, 19 September 2018 2:19 PM

To:

Subject: A Need for Laws Protecting Stone Masons against Engineered Stone Silic Dust

Dear Honourable Ms Grace Grace MP,

I refer to my letter dated 18th September 2018 further to which I attach Shine Lawyers submission with respect to the formulation of a permanent systemic fail proof solution to protect workers from engineered stone dust exposure.

I look forward to hearing from you and if you should wish to meet with me to discuss further then please feel free to contact me.

Kind Regards Roger Singh

MNEWS

Silicosis death of Anthony White sparks calls for action to address 'nationwide epidemic'

By Elise Kinsella

Posted Wed 13 Mar 2019 at 12:09pm



Gold Coast stonemason Anthony White was diagnosed with silicosis in 2017. (Supplied: Shine Lawyers)

A Gold Coast stonemason, who died from the lung disease silicosis, is being remembered for publicly exposing the dangers of silica dust, amid what's being described as a "nationwide epidemic".

Anthony White, who spoke to the ABC in February about his health battle, died last Saturday.

He was the first person from the engineered stone industry in Queensland to die from the disease, but his family have warned he will not be the last.

His death comes after a Queensland Government audit of the state's stone industry found <u>98 workers</u> had contracted silicosis, with 15 of those cases considered terminal.

Mr White's brother Shane Parata — who has also been diagnosed with silicosis — said he was frustrated by the lack of change in the industry.



Antony White's brother Shane Parata has also been diagnosed with the disease. (ABC News: Elise Kinsella)

"I know of at least 30 people personally who have the disease, and that is around me, and plus there are other mates who used to do the trade who are also getting tested," he said.

"I have been angry for so long, I don't want to be angry no more.

"I am just frustrated that it has taken for him to pass now and there is still no major real action.

"My brother is not going to be the only one who passes from this disease and from the product that it is, you'll see there will be a lot more very shortly."

Silicosis is an incurable and often fatal lung disease caused by breathing dust containing fragments of crystalline silica, which is found in manufactured stone kitchen benchtops and bathroom vanities.



Silicosis is caused by breathing dust from manufactured stone benchtops. (ABC News)

Issue needs to be addressed on a national scale

Mr Parata wants national regulation of the industry, with Shine Lawyers' Roger Singh — who represented Mr White — backing the call.

"There has been insufficient regulation of the industry, where unsafe work practices have been allowed to flourish for so many years," he said.

"As a result of that workers have been exposed to toxic silica dust, particularly when cutting and fabricating engineered stone.

"That stone contains 90-95 per cent silica content, which is lethal."

Mr White has been remembered by Mr Parata, as "generous, kind, respectful, a big bro, a great person" and praised him for speaking publicly about the illness.

"He wasn't a fan of being in the spotlight but at the end of this, I believe he is saving lives," he said.

Mr Singh said the issue needed to be vigorously addressed nationally, rather than leaving it to each individual state and territory.

"This is an epidemic that is affecting all states and territories, it is a nationwide epidemic," he said.

"It is high time that regulation was rolled out and a co-ordinated approach from a federal level."

Queensland Minister for Industrial Relations, Grace Grace, said she was deeply saddened by Mr White's death.

"On behalf of the government, I extend my deepest sympathies and condolences to his family and friends," she said.

"Even in the face of immense personal tragedy, Mr White showed incredible bravery in highlighting the deadly consequences of prolonged and unsafe exposure to silica dust.

"We owe it to all victims and families who are impacted by work-related deaths to do everything possible to prevent further tragedies and ensure that employers meet their obligations to provide safe workplaces."

brisbane times

National Queensland Illness

This was published 3 years ago

Silicosis victim's brother also suffering from deadly disease



By **Stuart Layt** March 13, 2019 – 6.30pm

The brother of a Queensland stonemason who died from silicosis has revealed he himself is suffering from the debilitating condition, as he promises to take up his brother's mantle in raising awareness of the issue.

Anthony White passed away on Saturday at the age of 36 as a result of the debilitating lung condition.

His younger brother, Shane Parata, has now revealed he has been diagnosed with silicosis, having also worked for over a decade in the stone manufacturing industry.



Gold Coast stonemason Anthony White, who died from silicosis aged 36.

"I've always felt a bit guilty about it because I'm the one who got him into the trade in the first place," Mr Parata said.

"I ended up moving into more of a foreman role in the company we worked for, so I wasn't exposed to as much dust as he was.

"They used to work us hard, we used to work almost double a 38-hour week most weeks because of demand, so when you say Anthony worked for 10 years, it's more like he worked for 20."

Mr Parata himself worked in the stone cutting industry for 15 years, but because of his lower levels of exposure he does not have as serious a case of silicosis as his brother had.

However he will have to deal with the related complications of silicosis for the rest of his life, with the condition considered irreversible.



Shane Parata says there is "anger" in the community of workers affected by the silicosis crisis.

Silicosis is caused by inhaling silica dust, with many manufactured stone products, such as kitchen and bathroom benchtops, containing up to 90 per cent crystalline silica.

Stonemasons who work for businesses that do not have appropriate safety measures can quickly be affected by the debilitating condition, which is often only treatable with a lung transplant.

Mr Parata said he had always admired the way his brother stood up for fellow stonemasons despite being bedridden for much of the past few years.



Anthony White suffered debilitating silicosis symptoms but insisted on standing up for more to be done about the issue. SHINE LAWYERS/SUPPLIED

"I've got at least 30 mates who have been diagnosed with (silicosis) now, and that's just my mates, not people I know in the industry," he said.

"They've got to do something about this, how could they let this happen?"

Shine Lawyers' dust disease expert Roger Singh, who was representing Mr White before he died, said there needed to be a national approach to the issue.

"We urge that there be a co-ordinated approach led by the federal government to roll out a vigorous nationwide regulation of the stonemason industry," Mr Singh said.

"What is astounding is that we all know the horrible legacy left by asbestos so it beggars belief that this product – engineered stone – which causes horrific diseases like silicosis has not been regulated in a way to prevent death and destruction of workers."

Queensland Industrial Relations Minister Grace Grace has put Queensland at the forefront of the silicosis issue, conducting an audit of all workplaces last year which found 98 workers had contracted silicosis, with 15 of those cases considered terminal.

"Even in the face of immense personal tragedy, Mr White showed incredible bravery in highlighting the deadly consequences of prolonged and unsafe exposure to silica dust," Ms Grace said.

"We owe it to all victims and families who are impacted by work-related deaths to do everything possible to prevent further tragedies and ensure that employers meet their obligations to provide safe workplaces."

The Queensland government is investigating eight businesses for systemic breaches of workplace rules regarding silica, following a statewide audit.

The government has also explicitly banned the practice of "dry-cutting" stone products, which generates excessive amounts of dust which is easily inhaled even with safety equipment.

Mr Parata said he would try to continue his brother's work in advocating for more to be done to care for those workers affected and prevent any more falling victim to the disease, saying there was "a lot of anger" in the stonemason community.

"I just wish we had known how dangerous it was," he said.

The COAG meeting of state and territory leaders in October announced it would consider starting a national lung dust disease register for workers.



Stuart Layt covers health, science and technology for the Brisbane Times. Connect via Twitter or email.

WNEWS

Workers diagnosed with silicosis push for ban on engineered stone after National Dust Disease Taskforce report

7.30 / By Peter McCutcheon and Michael Atkin

Posted Thu 15 Jul 2021 at 4:47pm, updated Fri 16 Jul 2021 at 8:57am



Karl Hanson, who has been diagnosed with the incurable lung disease silicosis, worked with engineered stone for 13 years. (*ABC News: Kyle Harley*)

Stoneworker Karl Hanson is unimpressed with a national task force's recommendation not to push ahead with an immediate ban on engineered stone benchtops.

"I don't think it's good enough," the 42-year-old Victorian stonemason told 7.30.

"We should be pushing towards a ban on the manmade products. Yeah it's cheap, [it] looks great, but there's cheap marble and granite out there as well."

Mr Hanson has the incurable lung disease silicosis — a result of having worked 13 years cutting engineered stone, often in dangerously dusty conditions.

"I've got three to seven [years] before I need a lung transplant — there are no guarantees," he said.

Key points:

- The official number of workers in the engineered stone industry with silicosis has nearly doubled nationally in less than two years
- One expert has warned the number of deaths from the incurable lung disease will increase significantly over the next few decades
- A report by the National Dust Disease Taskforce has now put the industry on notice

"They're saying I've got five to possibly 15 years left."

Mr Hanson is one of hundreds of engineered stoneworkers from around the country who have been diagnosed with silicosis.

An analysis of state figures by 7.30 has revealed about 470 accepted compensation claims across Australia – nearly double the number from less than two years ago.

In recognition of the growing crisis, the federal government established the National Dust Disease Taskforce in 2019, and the task force's final report was released this week.

It found there was a critical need for urgent action to further protect workers in the engineered stone industry and recommended a national licensing scheme.

But it stopped short of calling for a ban, instead deciding to put all parties "on notice" that a ban would be imposed if there were no significant improvements over the next three years.



Karl Hanson, pictured with silica dust on his face. *(Supplied)*

"I understand that there has to be some time provided to see if the regulatory changes are achieving what they're required to achieve," Roger Singh from Shine Lawyers said.

"But I do feel three years is too long a grace period because this product is loaded with silica, which is toxic."

'Systemic change' required to protect workers

The Australian Engineered Stone Advisory Group — the peak body for companies that supply engineered stone — declined to be interviewed by 7.30.

But one of its members, Caesarstone, said in a written statement that it supported "in principle" the recommendations of the task force.

"As the report makes clear, 'systemic change' is needed to improve protection for workers in all dustgenerating industries, including engineered stone, mining, sandblasting and construction," the statement said.

"We share the Taskforce's sense of urgency to implement this change.

"Caesarstone has been and continues to be a strong advocate for a mandatory nationwide licensing scheme for stonemasons and fabricators, with a rigorous auditing and enforcement structure to support it."

7.30 has confirmed at least nine engineered stoneworkers have died from silicosis, although Queensland has refused to release its fatality figures, citing privacy reasons.

Respiratory specialist and task force member Ryan Hoy expects this number to rise.



Dr Ryan Hoy says the number of deaths from silicosis will "increase signifcantly" over the next few decades. (ABC News: Andy Burns)

"I think the number of deaths from silicosis is likely to be significantly higher than nine, and I think tragically that number is going to increase significantly over the next several decades," he said.

Many states have cracked down on workplace safety in engineered stone businesses over the past 18 months, but the task force found the effect of these initiatives was still unclear.

Part of the problem is the structure of the industry, which mainly comprises small businesses employing between three and 20 people.



Roger Singh says three years is "too long a grace period" for regulatory changes in the industry. *(ABC News: Chris Gillette)*

"There are many workshops that popped up all around the country, backstreet operators, rogue operators, who will potentially fail to abide by any regulations," Mr Singh said.

A more dangerous processing method known as dry cutting is now banned in many states, but Dr Hoy says its deadly legacy continues.

"Our research shows that prior to 2018, only 3 per cent of workers had not worked in an environment where dry processing was occurring," he told 7.30.

"If you were trying to design the optimal conditions to actually cause silicosis, [it] would actually be the environment these workers have been in since the early 2000s."

'Living life on eggshells'

Tristan Wilson worked in these conditions for only five years before he was diagnosed with silicosis.

"The workplaces were no good. They were dusty and everything like that," Mr Wilson said.

"But it was the norm. It was what everyone was doing."

The 26-year-old now faces an uncertain future following his diagnosis.

"Some days I look at my kids and stuff and I think, what if my condition progresses faster?" he said.

"You're just living life on eggshells, because at any point in time you could go to the doctor and they could say, 'Hey, you're in trouble."

Mr Singh said the emphasis now should be on getting the task force's recommendations in place as quickly as possible.

"For many it's too little, too late but we have to take a bit of a pause and make sure the right thing is being done," Mr Singh said.

"These workers are in this position through no fault of their own.

"There has been a dereliction of duty on so many levels — from employers, stone manufacturers and suppliers and government agencies."

Watch this story on 7.30 on iview.

Deadly Splendour outbreak spreads

For three years Jack Gray had a cough that just wouldn't go away.

At first the Melbourne father put it down to smoking and getting older, but a year ago he began to fear its cause was something far worse.

Mr Gray, who had worked as a stonemason since he was 19, went to his doctor to insist they investigate his cough further amid reports of <u>an explosion of silicosis cases among those in his industry.</u>

"It wasn't until a year ago I went in and said (to my doctors) 'It's not right, I've had this cough for three years and it's pretty bad'. And they said we'll do some chest X-rays and that's when they found out," he told news.com.au.

Silicosis is an irreversible lung disease caused by long-term exposure to silica dust, which can be inhaled when artificial or engineered stone is cut.

For Mr Gray, the prognosis isn't good; doctors have warned he will need a lung transplant in five to 10 years and may need to rely on an oxygen tank to breathe in as little as 18 months.

"That's if it doesn't deteriorate even worse," he said.





Jack Gray and his fiancee Karissa Wright.

"At the moment it's sort of stable but my lungs, as they get older, will lose function. So no matter what they're going to get worse."

The 35-year-old father of four has also been told he will never be well enough to work again, something he has struggled to come to terms with along with the physical impact.

"It sucks, I'm exhausted, even talking now I get puffed," he said.

"I can't kick the footy with the kids. I used to love wakeboarding and snowboarding, kicking footy with the kids and playing.



Since being diagnosed, Mr Gray says he can't kick a footy around with his kids Ryder, 8, Scarlett, 4, and Kai, 11.

"I can't even jump on the trampoline without getting puffed. And the future who knows? Five to 10 years for a lung transplant, what do I do after that?"

For now, Mr Gray is receiving payments from WorkCover but he is also mounting a common law claim against his former employer.

He is being represented by Shine Lawyers dust disease expert Roger Singh, who is also representing 19 other clients with silicosis nationwide.

Mr Singh's Gold Coast <u>client Anthony White, 36, was the first stonemason in Australia to die from silicosis</u> in March this year.

Earlier this week, the <u>ABC's 7.30</u> revealed a surge in new cases, with 61 in Mr Gray's home state of Victoria alone.

As well, 166 cases have been identified in Queensland, 23 in NSW, five in Tasmania, three in Western Australia and one each found in South Australia and the ACT.

A national silicosis taskforce is preparing an interim report for Health Minister Greg Hunt on the "epidemic" for the end of the year.



Anthony White died in March. Picture: Supplied.

"We're not surprised with the dramatic rise in diagnoses that we're seeing across the country. We're representing and currently speaking with workers all around the country," Mr Singh said in a statement to news.com.au.

"The number of affected stonemasons is indicative of the epidemic we're faced with due to unsafe workplace practices associated with cutting and fabricating engineered stone which contains lethal silica dust.

"This national crisis needs to be tackled with a co-ordinated response at federal level."

Mr Gray says he knows plenty of stonemasons either suffering side effects from dust or in similar situations to himself.



Health Minister Greg Hunt at Parliament House in Canberra. Picture: Kym Smith,

"There's going to be hundreds, thousands, because every company did it like that — everyone cut dry, didn't know," Mr Gray said.

But most of all he is playing the waiting game with an illness that he has no real idea of what the long-term impact will be.

Mr Gray is engaged to be married to his long-term partner Karissa Wright, with whom he shares two children and is a stepfather to two more.

"You don't know what's in the future — doctors don't know, specialists don't really know, there's no cure for it, there's nothing you can do. There's just wait and see," he said.

We recommend

Top Heart Surgeon: This Simple Trick Helps Empty Your Bowels Every Morning Gundry MD Bio Complete 3 Supplement

The Sydney Morning Herald

Exclusive Politics Federal Illness

This was published 2 years ago

'It's in your hair, on your skin': Stonemason claims work on Parliament House caused terminal disease

By Chris O'Keefe

January 20, 2020 – 6.00pm

A stonemason who contracted a terminal lung disease is suing his former employer, claiming he was exposed to a deadly dust while helping build Parliament House in Canberra.

Frank Scott, 50, has been diagnosed with silicosis, an illness caused by breathing in silica dust. Mr Scott worked grinding, cutting and drilling the marble and granite slabs for R.M. Watson, a company contracted to help construct the new Parliament between 1986 and 1988.



Frank Scott: "I thought I would take a couple of Panadols or something and be back to work, not a lifelong sentence." SHINE LAWYERS

In a statement of claim filed in the ACT Supreme Court, Mr Scott says he was required to work six or seven days a week as an apprentice and had to blow the dust off the granite and marble

slabs and his clothes with an air compressor. He was provided with a paper mask while working with the stone but says it did not give adequate protection.

"We just assumed that was the best protection we could get so we just used those," Mr Scott told Nine in an interview. "It's in your hair, your clothes, on your skin ... sometimes you look like Casper the [Friendly] Ghost."

He is now using an oxygen tank 16 hours a day, can't work or play with his grandson and needs a double lung transplant.

"I thought I would take a couple of Panadols or something and be back to work, not a lifelong sentence," Mr Scott said. "I was thinking that it wasn't going to happen to me, and it has, so all these young people think it's not going to happen to them. It can and it will."

Silicosis is damage to the lining of the lungs' air sacs, which leads to scarring and fibrosis, making it difficult to breathe.

Mr Scott has lived in Canberra most of his life but was recently forced to move to Broome because the cold weather over winter was making his condition worse.

Roger Singh from Shine Lawyers, who is representing Mr Scott, believes tailor-made protective masks, proper ventilation in workplaces and the banning of "dry cutting" should be standard in the stonemasonry, mining and tunnelling industries.

"We are calling on the politicians who sit in parliament, which Frank helped build, to take immediate action to deal with the crisis," Mr Singh said.

A report in *The Annals of Occupational Hygiene* found 6.6 per cent of Australian workers have been exposed to silica dust. It is believed 350 people nationwide are currently suffering from silicosis but that figure is expected to increase. WorkCover Queensland said one in five stonemasons exposed to engineered stone had been diagnosed with the disease.

The NSW government has halved the amount of silica allowed in stone products from 0.1 to 0.05mg, while Victoria and Queensland have banned certain techniques like uncontrolled dry cutting.

A \$5 million Commonwealth dust disease taskforce has also been established to look at a national code to prevent, control and manage what is becoming a significant industrial health crisis. It will issue its final report to Health Minister Greg Hunt by the end of the year.

R.M. Watson did not respond to a request for comment.

What is silicosis?

The condition occurs when silica dust is breathed in and tiny crystalline particles of silica damage the lungs.

How are tradies getting silicosis? The practice of "dry-cutting" engineered stone products has been identified as a cause of the disease. Tiny dust particles can be found in engineered stone, which is made of about 90 per cent crystalline silica, a common substitute for marble benchtops.

What happens when the dust gets into the lungs? It can cause fluid build-up and scar tissue in the lungs, which restricts the ability to breathe. This can lead to lung scarring and coughing, weight loss and fatigue. There is no cure, according to the American Lung Association.

How long does it take to develop? Within a few weeks to decades after exposure.

How common is it in Australia? There are estimated to be about 350 current cases nationwide.

How serious is it? Gold Coast stonecutter Anthony White is believed to be the first Australian tradesman to have died of the condition in March last year. In the US, silicosis reportedly accounts for more than 100 deaths each year. According to the Cancer Council, more than 587,000 people were exposed to silica dust in Australia in 2011. It has been estimated that 5758 of these will develop lung cancer.

What happens now? A \$5 million commonwealth dust disease taskforce has also been established to look at a national code to prevent, control and manage the disease. It will issue its final report to Health Minister Greg Hunt by the end of the year. The NSW government has halved the amount of silica allowed in stone products from 0.1 to 0.05mg, while Victoria and Queensland have banned certain techniques like uncontrolled dry cutting.

Tradie sues over lung disease

OWEN LEONARD

A VICTORIAN tradie whose health is being eroded away by connective tissue and lung diseases is suing one of the country's biggest engineered stone manufacturers in a landmark compensation claim.

Roger Singh of Shine Lawyers says his 39-year-old client Nick Lardieri has succumbed to scleroderma and silicosis from inhaling toxic dust while working with artificial stone, with his case the first in Victoria concerning both diseases.

The father of two is suing major benchtop manufacturer Caesarstone as well as his former employer after being left with a patched-up hole in his throat due to years of inhaling silica dust. He was back in hospital on Tuesday night.

The "significant" claim is expected to run into the millions of dollars to reflect Mr Lardieri's pain and suffering as well as loss of earning capacity.

"He's advancing this claim for the sake of his family. He's got two young kids and he needs to ensure they are secure as his health erodes away," Mr Singh said.

Last year, more than 400 silicosis compensation claims were lodged by tradies against various companies around the country.



News Victoria

Deadly dust sparks wave of lawsuits as workers fall ill

A debilitating auto-immune disease that attacks skin, blood vessels, muscles and the internal organs of those who come into contact with it has sparked a wave of legal action from construction workers exposed to the deadly dust on the job.



Australia's worst industrial health crisis since asbestos has seen the rates of silicosis nearly double among Queensland stonemasons. A \$2 million state-wide audit has seen 186 Queensland stonemasons or nearly 20 per cent of the industry diagnosed with the respiratory disease. Silicosis is an irreversible scarring of the lungs...

VIC News

Don't miss out on the headlines from VIC News. Followed categories will be added to My News.

Follow

A debilitating disease linked to a deadly dust used in construction has triggered a new wave of legal action from sick workers.

Scleroderma — a rare auto-immune disease — is attacking the skin, blood vessels, muscles, and internal organs of workers exposed to silica dust.

Roger Singh, from Shine Lawyers, told the *Sunday Herald Sun* limited research and public information meant scleroderma patients had not drawn the link between the disease and working with silica.

Silica is found in sand, stone and concrete, with tiny particles released when material is ground or cut.

Mr Singh said workers were being left exposed, with some employers failing to provide basic protective measures such as respiratory masks and adequate ventilation systems.



Bradley Konndouras, pictured with his daughter, Hailey, has had two toes amputated, lost teeth, his gums are receding, fingers are skeletal and his right hand is almost permanently closed in a fist. Picture: Rob Leeson

"We've heard a lot about silica and silicosis, but among the carnage of silica dust is auto-immune diseases," Mr Singh said.

"These injuries have been flying under the radar, with people suffering in silence not knowing it is work related — the direct result of their employer's negligence, of putting profits before the safety of its employees."

Mr Singh, who was part of the National Dust Disease Task Force forum in Melbourne in October, said while silicosis injuries were readily accepted by the work cover insurer for statutory compensation, the auto-immune disease caused by the same dust was not.

https://www.heraldsun.com.au/news/victoria/deadly-dust-sparks-wave-of-lawsuits-as-workers-fall-ill/news-story/406beb8db2e326942164795a6f70... 2/9

Since 2018 Mr Singh has had 11 clients with scleroderma from exposure to silica dust make successful work cover insurance claims across the country.

FROM OUR PARTNERS ☐

The World According to Rowan Dean. Stream Tues-Thurs 9pm AEST on Sky News.

This was despite scleroderma not being a proclaimed disease under the Workers Compensation Act.

His first claim to be accepted in Victoria was in September last year.

"It's been a fight to access justice and compensation for these workers," Mr Singh said.

"These cases are only the iceberg.

"What frightens me is that there would be so many more out there."

Craigieburn father Bradley Konndouras is one of only five Victorians to have their scleroderma diagnosis recognised as a work-related injury by WorkSafe.

The 40-year-old — declared 97 per cent incapacitated to work — recently received a six-figure workers' compensation payout.





Bradley Konndouras before was diagnosed with scleroderma.





Bradley Konndouras in happier times with his wife Rose.

Mr Konndouras now plans to sue Unimin — a minerals company who employed him at its silica milling factories in Lang Lang and Dandenong in Melbourne's southeast suburbs in 2000-2005 — for negligence in failing to provide a safe workplace.

By 2007, he developed fluid on the lung and was told he had Raynaud's disease. Two years later, he was diagnosed with scleroderma and pleurisy.

Mr Konndouras was shocked when he learnt in August last year his disease could have been work related.

"I often think, 'What happened if I didn't do that job, things could've been a whole lot different'. But I'm stuck with it so can't do anything about it."



https://www.heraldsun.com.au/news/victoria/deadly-dust-sparks-wave-of-lawsuits-as-workers-fall-ill/news-story/406beb8db2e326942164795a6f70... 5/9



Bradley Konndouras, 41, is suing his former employer, Unimin, after being diagnosed with scleroderma and Raynaud's disease after being exposed to silica dust at work. Picture: Rob Leeson

DISEASE LEAVES LIFE IN RUINS

The life Bradley Konndouras once knew has gone to dust.

As a fit man in his 20s, he easily heaved heavy bags of silica over his shoulder and onto pallets.

Often he would come home with his clothes caked in a film of white powder.

"You'd get a puff of dust every time you threw a bag on the pallet," Mr Konndouras said.

"If a bag split open, the whole factory was white. It was like Christmas.

"You'd be covered head to toe — it would get up your nose and in your mouth."

The silica exposure while working in the Unimin factories in Lang Lang and Dandenong has seen him diagnosed with scleroderma.

So debilitating is the disease that, at only 40 years old, he was forced to give up work last year.

Struggling to breathe and with his skin constantly tightening — both symptoms of the rare auto-immune illness — he struggles with everyday tasks.

He has had two toes amputated, lost teeth, his gums are receding, fingers are skeletal and his right hand is almost permanently closed in a fist.

His old life — often outdoors, riding motorbikes or fishing from his boat — is gone.

"I don't want to go out any more and meet new people as I'm worried what they might think," he said.

"I can't hold a proper glass. Just meeting people, I can't shake their hand any more."

He did not know what he would do without the support of his wife, Rose, and their daughter Hailey, 19.

"I don't know what the future holds for me," he said.

"But there is no cure. It's only going to get worse

MORE NEWS

NO ARRESTS BUT POLICE THREATEN ACTION ON PROTESTERS

HOW FITSPO TREND DOES MORE HARM THAN GOOD