



Office of
Industrial Relations

Department of Education

Our reference: FILE32839, REC32841

Australian Competition and Consumer Commission

Email: adjudication@accc.gov.au

Dear Sir/Madam

Thank you for the invitation to provide comment on the authorisation application from the Australian Engineered Stone Advisory Group (AESAG). I understand that AESAG is seeking authorisation on behalf of itself, future members and other suppliers of engineered standards to:

- adopt industry accreditation standards for fabricators and stonemasons (Fabricators) working with engineered stone (Accreditation Standards);
- seek to require Fabricators, to whom Members supply engineered stone, to comply with health and safety practices under the "model" work health and safety (WHS) laws when working with the engineered stone in order to achieve accreditation; and
- consider whether to refuse to supply engineered stone where Fabricators do not meet the Accreditation Standards (Proposed Conduct).

Queensland's response to respirable crystalline silica dust

Queensland has been undertaking planned, deliberate actions to address the risk of workers developing illness due to occupation dust exposure, including respirable crystalline silica from engineered stone. Queensland's actions have included a proactive industry wide audit campaign of all known stone benchtop fabrication businesses across the state, as well as the development of the *Managing respirable crystalline silica dust exposure in the stone benchtop industry Code of Practice 2019* (the Queensland Code). The Queensland Code sets enforceable minimum standards stone benchtop fabricators must meet to ensure the risks of exposure to respirable crystalline silica is minimised for workers.

The Queensland Code commenced on 31 October 2019 and is being rigorously enforced through an extensive audit campaign of stone benchtop fabrication businesses by Workplace Health and Safety Queensland (WHSQ). It is mandatory to comply with the Queensland Code, unless the person conducting a business or undertaking is carrying out work in a way that provides a standard of health and safety that is equivalent or higher than the standard required under the Queensland Code.

The Queensland Code is the first of its kind in Australia and provides a systematic approach to controlling the risks associated with respirable crystalline silica.

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Concerns regarding accreditation standards

As Queensland's Work Health and Safety (WHS) Regulator, I hold serious concerns about AESAG's application as the Accreditation Standards conflict with the minimum standards set by the Queensland Code. In particular, I am advised that information on respiratory protective equipment (RPE) conflicts with the minimum standards for RPE set out in the Queensland Code, including in relation to fit testing and RPE type. The Accreditation Standards also conflict with the Queensland Code requirements in relation to air monitoring, health monitoring and incident reporting. Incorrect requirements are also listed in relation to recording keeping, as well as other matters. Additionally, the Accreditation Standards place a significant unnecessary burden on fabricators in relation to risk assessments which is not required by the Queensland Code.

I am further concerned that these conflicts could create significant confusion for stone benchtop fabricators about what are, and how to comply with, the relevant WHS requirements at a time when the industry is being called upon to rapidly transform itself to reach full compliance.

In this regard, I submit that there would be significant public detriment if the Australian Competition and Consumer Commission (ACCC) were to approve the AESAG application for authorisation.

Concerns regarding Proposed Conduct

I also hold significant concerns regarding the Proposed Conduct (requirement for accreditation by AESAG) and the impact this will have on both industry and the community. The Queensland Government does not have in place any requirement for stone benchtop fabrication workplaces to become accredited by AESAG in order to be compliant with the Queensland Code. Requiring a business to pay for accreditation places an unnecessary and unjustifiable financial burden on this industry, many of whom are small business operators.

Additionally, I hold concerns that allowing AESAG to not supply stone to fabricators who do not buy into their accreditation program could create situations in which some fabricators turn to an unregulated black market for supply of stone (i.e. through unregulated platforms such as Gumtree).

Correspondence regarding AESAG Accreditation Standards

I am also concerned that there are misleading statements made by AESAG in their submission to the ACCC. Specifically, the AESAG submission states that *"based on the Members' engagement with various health and safety regulators, the Members are of the view that these bodies are generally supportive of the Member's approach and initiative to address noncompliance with the Model WHS Laws"*.

While I welcome efforts by industry to address the risks to workers posed by exposure to respirable crystalline silica, I feel it is pertinent to note the Queensland WHS Regulator has not provided support for, or endorsement of, the Accreditation Standard or the Proposed Conduct.

I informed AESAG of this position in various correspondence sent in September and October 2019 and I requested their assistance in correcting the confusion their material has created so that industry and the WHS regulators may work together to achieve positive safety outcomes in relation to engineered stone. I have also written to all stone benchtop fabricators in Queensland to clearly communicate that AESAG's Accreditation Standards **do not** meet the standards set out in the Queensland Code.

The Accreditation Standards and Proposed Conduct will not address non-compliance with WHS laws as the requirements fall significantly below the mandatory WHS requirements set by the Queensland Code.

The Queensland Code represents the most up to date thinking on how to meet existing regulatory requirements and what is required to achieve safety for workers in the stone benchtop industry.

If you require further information or assistance, please contact Mr Bradley Bick, Acting Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, on [REDACTED].

Yours sincerely



Craig Allen
Deputy Director-General
Office of Industrial Relations
24/12/2019