



Submission on:

Australian Engineered Stone Advisory Group (AESAG) – Public Consultation 5/12/19 to 22/01/20.

Australian Competition & Consumer Commission (ACCC)

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Table of Contents

1	Introduction	3
2	Comments	4
3	Closing	5

1 Introduction

GCG health safety & hygiene (GCG) wishes to put forward this submission to contribute its expertise and knowledge into aspects of the public consultation process being undertaken by the ACCC in relation to Australian Engineered Stone Advisory Group (AESAG) – Public Consultation 5/12/19 to 22/01/20:

AESAG is seeking authorisation for 10 years on behalf of itself, future members and other suppliers of engineered stone 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**).

NB: excerpt from the ACCC public register for comment.

GCG are a privately-owned workplace health and safety (WHS) professional services consultancy, specialising in Occupational Hygiene. Founded in 2005, we have over 75 personnel operating out of 3 main offices (Brisbane, Perth and Townsville) as well as satellite offices in Emerald, Moranbah, Singleton, Hobart and Busselton. Our clients are primarily national and international companies in the resources, services, construction, government, manufacturing, aerospace, water infrastructure and energy industries.

In relation to respirable crystalline silica (RCS), our consultants currently provide services to the engineered stone sector to help them to keep their people safe. This is achieved under the guidance of our experienced occupational hygiene practitioners, including our seven (7) Certified Occupational Hygienists (COH)® - the highest level of grading offered by the Australian Institute of Occupational Hygienists (AIOH) – an important requirement under the Queensland COP for Stone Benchtops.

Outside the engineered stone sector, GCG take over 10,000 dust samples per annum – including RCS and coal dust. GCG also has a mature data management system for the samples taken over the last 10 years.

In the context of the current public consultation, we would like to contribute our expertise and knowledge into aspects that relate to workplace health and safety. We are uniquely positioned to provide feedback on the framework proposed by AESAG.

For transparency, GCG provide services to the stone benchtop industry in the form of WHS and Occupational Hygiene professional services. However, this currently forms less than 1% of GCG's annual revenue. GCG staff are also bound by professional services and ethical standards through the Australian Institute of Health & Safety (AIHS), the AIOH, and professional auditing accreditations such as Exemplar Global.

2 Comments

1. GCG is generally aware of the inherent challenges that the stone industry has in relation to implementing systematic control and meeting the full suite of compliance standards with respect to occupational health and hygiene hazards – including but not limited to management of RCS.
2. However recent work completed, combined with industry observations demonstrate that the sector has exhibited a strong appetite to control RCS exposures and as a result are maturing rapidly.
3. As summarised by AESAG, GCG also expect that the engineered stone sector will require substantial support to comply with existing and new legislative requirements relating to occupational health and to protect their worker health.
4. It is essential that any program is specific to the risks exhibited at each business, as derived from a risk assessment. Any subsequent sampling of workers is to be undertaken by qualified and competent personnel.
5. The Australian Institute of Occupational Hygienists (AIOH) is the preeminent professional body for Occupational Hygiene within Australia, holding over 1,000 fee paying members of the profession. The proposed method could restrict trade of occupational hygiene services to one company.
6. GCG challenge the belief that any single business currently operating in Australia has the capacity to adequately support the demand for occupational hygiene services, including monitoring, in a timely manner, using qualified and competent personnel. Mobilisation delays and additional costs to industry (through excessive travel costs, in addition to the mandatory proposed minimum costs) will likely be experienced if the proposed structure was allowed.
7. Regional fabricators are likely to experience higher costs of compliance to the program due to mobilisations costs.
8. Local service providers (i.e. Occupational Hygienists), particularly in rural areas, may be precluded from continuing to provide services to fabricators across this and other areas of WHS compliance.
9. Most jurisdictions are now actively regulating the engineered stone sector as a priority, including some jurisdictions providing additional guidance or specifications on compliance. This regulatory landscape is rapidly changing, to the point where the AESAG model may not comply with jurisdictional specifications. This can result in unnecessary burden on industry and potential rework (at a cost). As per the QLD Office of Industrial Relations submission¹ to this public comment, they advise that this conflict currently exists.
10. The proposed accreditation program and pre-qualification tool is not stone industry specific and does not address and consider the unique challenges of the sector. Further to this, GCG are not aware of the process showing demonstrable evidence of improving safety outcomes, let alone occupational health and hygiene outcomes.
11. GCG agrees with, and supports, independent regulators and accreditation programs. For example, this has been demonstrated to be effective in the construction industry at a State Government level with the Pre-Qualified Contractor programs in NSW and QLD, and at the Australian Government level through the Office of the Federal Safety Commissioner. These are independent agencies that are also bound by strictly enforced ethical standards for employees and contracted providers.
12. The proposed AESAG model includes the potential for the proposed single business to pre-qualify fabricators, audit and provide advisory services to comply to its own model. Fundamentally, GCG believe that this is an anti-competitive practice that is in direct breach of ethical standards² for any professional services firm, or individuals³⁴, to undertake. Essentially, the model proposes a system whereby the same agency who audit and (eventually) accredit the company may also be the sole provider of the services and actions required by the accreditation. From information presented, the current model is not independent and it is clearly a conflict of interest.

¹ QLD Government (24/12/2019). ACCC Submission on AESAG, FILE32839, REC32841. Retrieved from <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/australian-engineered-stone-advisory-group-aesag> on the 20/01/2020.

² Safety Institute of Australia – Code of Ethics. Retrieved from <https://www.aihs.org.au/sites/default/files/SIA-Code-of-Ethics-Website-No-Signature-At-The-Bottom.pdf> on the 20/01/2020.

³ Exemplar Global – code of conduct for exemplar global certified persons. Retrieved from <https://exemplarglobal.org/documents/certification-requirements/latest/pcf01-code-of-conduct.pdf> on the 20/01/2020.

⁴ Australian Government – Auditing and Assurance Standards Board. Auditing standard ASA 102 compliance with ethical requirements when performing audits, reviews and other assurance engagements. Retrieved from https://www.auasb.gov.au/admin/file/content102/c3/ASA_102_Auditing_Standard_FRLI.pdf on the 20/01/2020.

3 Closing

As a stakeholder within the professional services sector and to the engineered stone industry, GCG appreciates the opportunity to provide a submission to the ACCC and we are willing to contribute further to assist all stakeholders to further reduce the risk of occupational illness.

We are bound by our own ethics as well as those of the professional associations that our personnel are members of. We firmly support any initiative that we believe will fulfil this objective in an independent manner and in a competitive environment.

Following careful consideration of the available information in relation to AESAG, GCG's position is summarised below:

- GCG fundamentally supports the development of a specific program to assist the engineered stone industry to improve occupational health and hygiene, including dedicated focus on support mechanisms to meet or exceed legislative obligations in relation to respirable crystalline silica exposure management.
- The current AESAG model, albeit with the right outcome in mind, is not preferred, and is not expected to be able to be delivered in a manner that is in the overall public interest. For reasons detailed within this letter, GCG's opinion is that the proposed is not feasible and will not deliver the intended risk reduction for the whole of industry as documented.
- GCG believes that the request for authorisation should be wholeheartedly rejected.
- Considering the intended remit of AESAG, industry engagement undertaken as well as collateral developed to date, GCG would like to propose that an alternate approach is considered to achieve the objectives of AESAG. This could include the establishment of an independent Australian Government body to oversee the implementation of a program of industry-specific standards and independent auditing for members. This could be subsidised (or partially subsidised) by the Government, and/or by the industry itself (similar to mining levies).
- Regardless, any model must:
 - o Be independently managed and directed;
 - o Be delivered in an ethical manner;
 - o Be in the best interests of all stakeholders in the engineered stone industry;
 - o Deliver real improvements in overall compliance and in turn the health of workers; and
 - o Be executed within the open marketplace by qualified and competent health and safety professionals.

GCG appreciates the opportunity to provide a response on this matter. Please feel free to contact me should GCG be able to assist in any other way.

Regards,



Brendan Green

CEO – GCG health safety & hygiene

22/01/2020