



Australian Government
Attorney-General's Department
Work Health and Safety Policy

24 January 2020

Ms Danielle Staltari
Director
Adjudication
Australian Competition and Consumer Commission
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Dear Ms Staltari

Thank you for the opportunity to comment on the application for authorisation by the Australian Engineered Stone Advisory Group (AESAG) to introduce accreditation standards for fabricators and stonemasons working with engineered stone.

The Attorney-General's Department is responsible for work health and safety (WHS) policy in the Commonwealth jurisdiction. Our role includes monitoring the operation of the Commonwealth's WHS laws to ensure they operate as intended, and promoting national consistency and harmonisation of WHS policy and laws across all jurisdictions. We are also the Commonwealth representative at Safe Work Australia (SWA), the national body with ongoing responsibilities to develop, monitor and review WHS laws, codes of practice and other WHS guidance material, as well as policy dealing with compliance and enforcement of WHS laws.

The emergence of silicosis in the engineered stone industry is deeply concerning. The Australian Government has been working with states, territories, employer, and employee stakeholders through SWA to develop and implement an occupational lung diseases work plan to address the risks posed by dust exposure in the workplace. A review of the workplace exposure standard (WES) for respirable crystalline silica (silica) was prioritised under this plan. Following the review, a majority of WHS Ministers agreed to halve the current WES for silica from 0.1 mg/m³ to 0.05 mg/m³, and to implement the revised WES as soon as practicable.

In July 2019, the Australian Government established the National Dust Disease Taskforce (the Taskforce) to develop a national approach to the prevention, early identification, control and management of occupational lung diseases. On 23 January 2020, the Minister for Health publicly released the Taskforce's interim advice and announced the Government is acting to accept all five recommendations. The recommendations will require action and collaboration between jurisdictional governments and these actions will be implemented progressively in 2020 in parallel to the Taskforce finalising its report to the Council of Australian Governments' Health Council by the end of 2020. The interim advice and the Minister for Health's media release can be found at www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/action-on-national-dust-disease-taskforce-interim-advice.

The model WHS laws, or equivalent protections in Victoria and Western Australia, provide the framework for protecting the health, safety and wellbeing of workers. They require duty holders to ensure the health and safety of workers while they are at work, as far as reasonably practicable.

Duty holders need to assess their risks and implement appropriate management strategies on a case by case basis, taking into account their operational requirements and working environments. These requirements already apply to all businesses or undertakings working with engineered stone products.

The Australian Government welcomes efforts by industry to champion and drive best practice in WHS and protect workers from exposure to unsafe levels of silica dust. To this end, the Government welcomes AESAG's proposed scheme.

It is however worth considering the risk that a business may erroneously believe successful accreditation in AESAG's proposed scheme provides them with assurance that they are therefore compliant with WHS laws in relation to working with engineered stone. Monitoring and enforcing compliance with WHS laws is the responsibility of the appropriate state or territory regulator, not an industry-led scheme. As such, AESAG would benefit from making it clear that accreditation under the proposed scheme does not provide a full, legally defensible means to address WHS responsibilities.

There is further risk that given the accreditation process narrowly focuses on managing risks associated with engineered stone, businesses could become complacent with meeting their WHS duties more broadly. AESAG would benefit from making clear that the accreditation scheme operates only in respect of one aspect.

Thank you again for providing the opportunity to comment.

The action officer for this matter is Elizabeth de Hoog, Director, Hazards, who can be contacted on

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