

SUBMISSION

Public consultation on the prohibition on the use of engineered stone

Instructions

To complete this online submission:

- Download and save this submission document to your computer.
- Use the saved version to enter your responses under each question below. These questions are from the [public consultation on the prohibition on the use of engineered stone](#).
- Once you have completed your submission, save it and upload it using the upload your submission link on the [Engage submission form](#).

Submissions will be accepted until **11.59 pm on 2 April 2023**.

Additional documentation

Up to three additional documents can also be uploaded when you submit your response. Relevant documents to upload could include cover letters or reports with data and evidence supporting your views.

Help

If you are experiencing difficulties making your submission online, please contact us at occhygiene@swa.gov.au.

Respondents may choose how their submission is published on the Safe Work Australia website by choosing from the following options:

- submission published
- submission published anonymously
- submission not published

For further information on the publication of submissions on Engage, please refer to the [Safe Work Australia Privacy Policy](#) and the [Engagement HQ privacy policy](#).

Please note the following are unlikely to be published:

- submissions containing defamatory material, and
- submissions containing views or information identifying parties involved in hearings or inquests which are currently in progress.

Your details

(Please leave blank if you wish to remain anonymous)

1. Name or organisation

Margaret Lukas – Proprietor of Stone Obsessions NSW and Lukas Joinery

2. Email used to log into Engage

[REDACTED]

Consultation questions

1. Do you support a prohibition on the use of engineered stone? Please support your response with reasons and evidence.

No

2. If yes, do you support a prohibition on the use of all engineered stone irrespective of its crystalline silica content? Please support your response with reasons and evidence.

No

3. If no, do you support a prohibition of engineered stone that contains more than certain percentage of crystalline silica? If yes, at what percentage of crystalline silica should a prohibition be set? Please support your response with reasons and evidence.

Yes – but only if accompanied by a stringent licensing system that also includes a skills qualification. A sliding scale must be applied at around 40% to allow for batch variations that will occur due to the vary composition of natural materials used in engineered stone.

4. How many businesses work with engineered stone only?

For these businesses, please provide where possible:

- a) the number of sole traders and small businesses (1-20 employees), medium businesses (21-200 employees), large businesses (>200 employees)
- b) the number of workers in these businesses, by business size
- c) the average annual revenue, by business size
- d) the proportion of business activity with engineered stone containing 40% or more crystalline silica content, by business size
- e) the proportion of business activity with engineered stone containing less than 40% crystalline silica content, by business size.

Please use the table below to enter this information.

Business type	Description	Sole traders and small business	Medium business	Large business
Business working with engineered stone only	Number of businesses			
	Number of people employed			
	total annual revenue (approximate, rounded to nearest \$10,000)			
	Proportion of business activity involving ES with $\geq 40\%$ silica			
	Proportion of business activity involving ES with $<40\%$ silica			

Click or tap to enter text.

5. How many businesses work with both engineered stone and non-engineered stone products?

For these businesses, please provide where possible:

- the number of sole traders and small businesses (1-20 employees), medium businesses (21-200 employees), large businesses (>200 employees)
- the number of workers in these businesses, by business size
- the average annual revenue, by business size
- the proportion of their business activity with non-engineered stone products, by business size
- the proportion of their business activity with engineered stone containing 40% or more crystalline silica content, by business size
- the proportion of their business activity with engineered stone containing less than 40% crystalline silica content.

Please use the table below to enter this information.

Business type	Description	Sole traders and small business	Medium business	Large business
Business working with both engineered stone and non-engineered stone products	Number of businesses	1		
	Number of people employed	3		
	Average yearly revenue (approximate, rounded to nearest \$1000)	750 000		
	Proportion of business activity involving ES with $\geq 40\%$ silica	80		
	Proportion of business activity involving ES with $<40\%$ silica	0		
	Proportion of business activity involving non-engineered stone products	20		

Click or tap here to enter text.

6. Do you have any data or information on the risks to workers from the other non-crystalline silica elements of engineered stone? Are these risks increased in engineered stone of less than 40% crystalline silica content?

No – we have not yet used low silica stone and unaware of the components but understand there would be risks associated with other minerals including feldspar

7. In relation to Option 3, do you have:

- any information on the additional benefits of a licensing scheme over the enhanced regulation agreed by WHS ministers (Option 5a) that would already apply to engineered stone products containing less than 40% crystalline silica content?
- feedback on the implementation of concurrent licensing schemes for both prohibited engineered stone and non-prohibited engineered stone?

We support a stringent National Licencing scheme, with varying levels of licence according to the trade work required. The licence should apply to at all products containing crystalline silica We also believe that in the engineered stone industry, the licensing scheme should rely on a qualification that is developed specifically for the stone benchtop industry.

8. Are the assumptions and scenarios described for Option 6 in the Decision RIS accurate and appropriate? If not, why? Please provide additional information to support the impact analysis.

No – switching to working with 100% natural stone is not an option, the market demand shows that customers want engineered stone. Carrying out works with a licence for exempt activities

for engineered stone would be minimal, and not viable. Industry support packages are required for all scenarios to assist small business to remain viable.

9. Are there any other options or issues you think should be considered for a prohibition on the use of engineered stone?

Yes – a licence before any restrictions. Please see attached document – too many to list on this page.

10. Should there be a transitional period for a prohibition on engineered stone? If so, should it apply to all options and how long should it be?

A transitional period of 24 months along with compensation for remaining prohibited stock at the end of the period is required.

11. Do you have any evidence or data on the number of cases of the other silica-related diseases (such as lung cancer, chronic obstructive pulmonary disease, kidney disease, autoimmune disease) attributed to exposure to crystalline silica from engineered stone?

No – we are a small fabricator and do not conduct this in depth research

12. Do you have any additional evidence or information on the impacts of silicosis or silica-related diseases?

For example, the direct impacts on the affected worker from the disease, the impacts on the mental health of affected workers and their families, the healthcare costs to the affected worker, loss of income for affected workers and their families, the costs to the health, workers' compensation and social support systems.

No – however I am pleased that iCare conduct screening including CT scans. I suggest the data on each employee should be used as a base line for a report provided to an employee/employer on request when applying for a position. There needs to be more funding for mobile screening in rural and regional areas – wait times are lengthy and it is expensive for employees to travel to Sydney.



Custom Made Kitchens Quality Stone Benchtops

Stone Obsessions

Thankyou for the opportunity to provide feedback for the proposed options being considered.

We are a licensed builder and a stone fabricating business and have been operating in the Newcastle area for over 15 years. We have operated as builders since 1988 and have seen the building industry in NSW evolve over that time.

1. **Option 1 (Prohibition)** would not be acceptable to us as it would result in the forced closure of our business. As a small specialised business this is our livelihood, and we have our business financially secured by our home. The collapse of the stone industry would be devastating to us personally and our employees and the many other businesses we support and trade with.
2. **Option 2 (Prohibition 40% or more)** would be acceptable but is not our preferred outcome as it only limits silica content and does not include licensing for general use of all silica containing products. There may be a general perception in industry that "low silica" equates to a safe product and fabricators relax/ ignore the required safe methods. However a lower silica content will only be safer when combined with the existing WHS methods of control. Any percentage of silica exposure has harmful potential and promoting low silica (without a rigorous licensing system in place) may actually increase the possibility of exposure.

Option 3 (Prohibition of 40% or more AND licensing).

Option 3 is the most acceptable to us however is not our preference.

We welcome a National silica licensing system, similar to the Asbestos licensing as administered by SafeWork NSW, so would support Option 3 with further clarification and consideration, and explain our reasoning below.

It is also unclear if the proposals apply to natural stone products also or only engineered benchtop stone slabs. Natural stone containing silica at rates greater than 40% is used widely in other situations and industries eg tiles and pavers, cladding to buildings, landscapes and sculptures, furniture, ornamental homewares.

If engineered stone is to be restricted due to the silica content, it is unclear if the same restrictions will be considered for all engineered products that contain silica, eg concrete, glass, bricks, pavers . A product that contains silica requires the same safety control methods when handling and fabricating, and we feel the proposed silica restrictions should apply to all relevant trades and not just stonemasons.

Our business has always used wet cutting methods and we operate with full face powered air respirators. Our monitoring programs have been in place for years and our methods already comply with any proposed changes and we are confident that we can obtain a licence. We would however like to suggest that licensing fees be waived for applications from existing established fabrication businesses. New applicants will be aware and be able to factor in the fees accordingly, however established business that are now required to hold an additional licence along with their NSW contractor licence (if applicable) should receive an incentive during the introductory period.





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4. Preferable - ALTERNATIVE Option

Licensing only

Our preference would be for the introduction of a National licensing system that is monitored for at least 12-24 months, prior to legislating any restrictions for fabricating engineered stone.

It is disappointing that a licensing system was not developed and implemented by SafeWork NSW some years ago. At the time the main engineered stone wholesalers formed the Australian Engineered Stone Advisory Group to develop their own restrictive accreditation system. This was at a substantial cost to the wholesalers and the stonemason businesses. This system was not feasible and not widely accepted, however it highlighted the lack of Engineered Stone Standards in Australia, and the need for immediate National stone industry licensing. SafeWork NSW responded at the time with a safety advertising campaign, targeting more factory inspections and with an incentive of a \$1000.00 rebate to eligible businesses for improvements.

A monitored National licensing system would ensure businesses and employees are well educated in all aspects of stone fabrication regardless of the silica content. Stringent testing for obtaining a license would remove the need for wholesalers to have a certification system in place for their purchasers. A licence would provide a clear pathway for enforcement action for non compliance.

A licence would also prevent fabrication of engineered stone by unskilled / unlicensed DIY and the general public. The recently introduced Victorian Licence appears to only need a statement from the business owner on providing training. Online silica awareness courses are available for around \$50.00 - We are very concerned that this type of qualification/attainment and subsequent licence is inadequate as it may not cover skills and education.

5. Other Considerations

Consultation

We would also like to request that further consultation with affected stone fabrication businesses be urgently undertaken before the analysis is completed. There must be a strong focus on the expected financial effects of prohibiting silica containing products. Under all the current proposals, we are being placed in a position where we will either be forced to close our business, or at the best scenario suffer a dire financial loss that will affect our businesses viability and success. ALL of the three current prohibition options will have expenses to us and affect our profitability and have already had unexpected expenses and detrimental effects.

I point out that of the 1000 stone business and 10 000 workers as reported in the DRIS that are expected to be affected, that only 67 submissions were received after public consultation on the CRIS (page 72 of your DRIS) and this doesn't appear to include any stone fabricators, indeed I was unaware of the opportunity for public consultation in June 2022.





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Consultation cont

It is disappointing that the threat of a ban on engineered stone was recently used as a pre-election tool and had detrimental effects on our business. We have already had a decline with customers delaying orders and questioning if their benchtop will still be supplied in April or banned.

The short timeframe given for submissions ending on 2 April 2023, whilst the NSW Government was under caretaker mode for most of that time, was also very concerning and disappointing as it prevented small businesses to access necessary representations. The lack of advertising for public consultation for submissions is also very concerning. Small businesses and fabricators who will be greatly affected by these proposals, generally do not have the time and resources to prepare a submission in a short time frame.

The online platform also does not provide a guideline or seek answers to relevant questions which would assist small businesses to easily and quickly lodge a submission that would provide accurate and easily collated data. The survey is confusing and requires intensive reading of the DRIS.

Industry associations including the HIA and MBA have been supportive in providing information to members about the proposals. However the majority of stone fabricators that I have recently spoken to are not members of an association and many were unaware of the ability to lodge a submission.

Financial Compensation

In the stone industry it is common for fabricators to have stock of full and partially cut slabs, sometimes referred to as "offcuts" which can range in size and cost.

Our business alone has approximately \$100 000.00 worth of current stock, which can sometimes remain in stock for up to 5 years.

Compensation to businesses with remaining stock that was purchased in good faith but will become unusable/illegal due to new legislation must also be considered. The cost of safely disposing of a banned product must also be considered. Particularly as the importation of the product had been approved previously by the government and the purpose and use of the product has not changed.

Valuable stone fabrication machinery and equipment must also be considered for compensation if the product it is designed for use is prohibited.

This machinery is custom made and specific, it is pneumatic and water driven and not adaptable to other industries. This equipment would also become worthless. Like our machinery, most equipment in the stone industry is expensive and purchased by finance. As a general guide, stone fabricating machinery commences at around \$150 000.00 plus GST, and multiple pieces of machinery and equipment are required for correct fabrication. Defaulting on any of these finance agreements is a real possibility for stone fabricators, if any of the current proposals are implemented in the current form in the near future.





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Funding for necessary upgrades

Analysis should also include scoping the possibility of government providing a support package in the form of a low cost loan or grant funding for stone fabricators to assist with;

1. Upgrading or installation of machinery to ensure ongoing compliance of preventing exposure to respirable silica and other dangerous respirable minerals.
2. Costs associated with transitioning to low silica engineered stone or fabricating alternative benchtop materials, eg not all machinery currently used for engineered stone is suitable for fabricating low silica sintered ceramic surfaces. Additional woodworking machinery that is not generally used in stonemasonry is also required for fabricating substrates for sintered ceramic and porcelain surfaces.

A substantial rebate similar to the NSW Safework Quad Bike Rebate for fitting of Roll Over Protection, must be provided for any necessary machinery modifications required to comply with any proposed new legislation.

Timeframe for introduction of proposals.

Whilst our preferred suppliers, Quantum Quartz, YDL Stone and Smartstone, are all developing and transitioning to new lower quartz/silica products, it will take time for existing stock to be used and new stock to arrive. We believe the timeframe of 6 months for Safe Work Australia to provide analysis and recommendations on banning imports is not feasible. It would take further time for suppliers to deplete all existing stock and procure sufficient new low silica stock to enable the stone industry to continue uninterrupted. Indeed some engineered stone manufacturers are struggling to formulate the optimal mix that still provides a suitable strength when the permitted silica content is yet to be legislated and advised. In short - less silica means less strength.

Proven Safety of Engineered Stone

We are also concerned that one of the quartz/silica replacement materials being used is feldspar, and prolonged respiratory exposure to this mineral can be as dangerous as silica. The analysis by Safe Work Australia also needs to investigate in depth the potential long term respiratory risks of the new low silica formulations and if any other adaptations to methods need to be introduced.

By only having the silica content recognised and restricted by legislation, creates a potential for other cheaper generic or “unbranded” low silica stone containing more dangerous ingredients to be imported and flood the market, with businesses and fabricators unaware of the strength and safety of the cheaper stone.

We fully support the formulations of low silica engineered stone that is now being transitioned into use by Smartstone, however many fabricators will have price driven customers and be encouraged to use an inferior low silica product that may be more dangerous.

Low Silica stone is more expensive than the current engineered stone and I expect it will further rise in cost with the additional increased expenses that the wholesalers are now facing for compliance. EG rebranding, re- certification, changes to importation, associated research and development, new merchandise and displays. All these costs are eventually passed on to stone fabricating / kitchen companies, builders and eventually consumers. The stone industry is very competitive and the quality manufacturer's already face fierce competition with cheaper (inferior quality) generic stone available by some importers including hardware suppliers.





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Warranty in the NSW Home Building Industry

There are also negative warranty implications around the suitability and strength of proposed replacement low silica stone. Builders, kitchen companies and contractors supplying stone (even using a subcontracted stone mason) must provide a statutory warranty that assures the benchtop will remain free of defects and fit for purpose for a minimum of 7 years. It is our past experience that the Eco engineered stone product containing a high proportion of resins and recycled material including glass (and less quartz /silica) was inferior and prone to chipping. This eco product did not meet our warranty guidelines and we ceased using it. We have 15 years proven results of supplying quality branded engineered and natural stone benchtops and have shown our product remains fit for purpose with a longevity that far exceeds the mandatory 7 years.

Rushing legislation that forces tradesmen to use a new product that as yet has no proven strength or safety track record or history, and may expose the contractor to legal actions and warranty claims from a homeowner is unacceptable.

Training and Qualifications

In NSW the development of a specific Trade Contractor Licence for Stone Benchtops by NSW Fair Trading is urgently required. The current stonemason trade qualification delivered by TAFE and other RTO's is highly aimed at monumental and structural stonemasons and does not provide adequate reference for the home building and kitchen industry. The associated Stonemason Licence issued by the Home Building Section of NSW Fair Trading and classified as trade work relies on this qualification. It is unlikely a monument would be in a residential home, so a more relevant training course and qualification is needed. Given the risks associated with all stone containing varying amounts of silica, it would be beneficial for the entire stone industry and not just residential home building, to have a specialised trade contractor licence. Electricians are required to be highly skilled and licensed to carry out any type of electrical work, I am perplexed why a stonemason can be just at risk but not require any type of licence in a commercial situation.

Marketing to the entire building industry and also the DIY renovation industry regarding the requirement for a specialised trade qualification and associated licence to handle stone is also urgently required.

We believe that in NSW, the immediate development of a stringent licensing system by Safe Work Australia suitable for a national roll out and then administered by SafeWork NSW and other states is required. This action combined with NSW Fair Trading developing a specific trade contractor licence should be the first step in Government's duty of care in preventing silica exposure. The following steps of restricting the silica content of engineered stone over a gradual timeframe, along with incentives, grants and compensation would also lessen the detrimental financial effects, and assist the Australian stone to continue being a responsible and valuable resource to the economy.

Banning the use of engineered stone will result in the collapse of a valuable industry, the loss of livelihoods to at least 30 stone business and hundreds of employees and their families affected, just in my local Newcastle and Hunter area. The proposed prohibition of all engineered stone would have severe effects across the entire building industry in Australia.

Please feel free to contact me if I can assist in any way or you would like any further information,

Kind regards,

Margaret Lukas

