

SUBMISSION

Public consultation on the prohibition on the use of engineered stone

Your details

Name or organisation

Smartstone Australia

1. Email used to log into Engage

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Consultation questions

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

Smartstone Australia (Smartstone) has been invited to make a submission to the consultation process on prohibition of the use of engineered stone in Australia initiated by Safe Work Australia (SWA).

As a leading national supplier of engineered stone products to the construction market, Smartstone is pleased to have the opportunity to participate in this consultation and well placed to do so. Servicing around 737 stonemasons nationally, Smartstone has unique visibility into current practices - and levels of safety compliance – in the engineered stone industry in Australia.

Smartstone acknowledges that workplace exposure to respirable crystalline silica (RCS) has led to an increase in cases of silicosis and other silica-related diseases among Australian workers, particularly manufacturers of engineered stone in situations where correct safety measures have not been followed.

We agree that occupational health risk associated with unsafe handling of engineered stone is an urgent issue and that regulatory action is required to address these risks.

- WHS Ministers agreed to the following SWA recommendations at their meeting on 28 February: National awareness and behaviour change initiatives.
- Regulation of high-risk crystalline silica processes for all materials (including engineered stone) across all industries.
- Further analysis and consultation on the prohibition on use of engineered stone including consideration of silica content levels and other risk factors, and a national licensing system for products that are not subject to a ban, or legacy products.

The third of these recommendations is the subject of Smartstone's submission. Three options are under consideration by the SWA:

Option 1	Prohibition on the use of all engineered stone
Option 2	Prohibition on the use of engineered stone containing 40% or more crystalline silica
Option 3	Prohibition on the use of engineered stone containing 40% or more crystalline silica and licensing of PCBU's working with engineered stone

Smartstone does not support a prohibition on the use of all engineered stone.

Smartstone maintains that silica-related diseases can be prevented with effective controls that eliminate or minimise generation of, and exposure to, RCS.

Such a step would result in the shuttering of an industry that generates an estimated \$400 million and employs an estimated 8000-9000 people nationwide. Furthermore, it will result in the abolition of a core material used by the construction industry, a material as significant as plasterboard, timber, bricks and tiles.

We respect the feedback provided on the CRIS by unions, peak health bodies, and professional organisations; their call for a prohibition is understandable given the implications of unsafe practices. However, there is another path to eliminating the risk of exposure to RCS and silica-related disease that does not require the loss of an entire industry.

Preventing silicosis relies on mandating safe work practices, funding regulators to conduct more frequent inspections and enforcing harsh penalties for non-compliance. Safety measures to prevent exposure to silica dust include:

- Adequate ventilation systems
- Dust-capturing systems on portable tools
- Wet-cutting of materials (and a complete prohibition on dry-cutting)
- Use of personal protective equipment, such as masks and respirators
- Wet methods to remove and clean up settled dust.

2. 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.

While Smartstone maintains that manufacture of engineered stone is possible at any level of silica content provided the safety measures in (1) above are followed, we note that in SWA's Options 2 and 3 contemplate a prohibition on engineered stone with crystalline silica content greater than 40%.

This threshold reflects the situation in Victoria, where engineered stone with silica content above 40% is subject to licensing. The basis for 40% level appears to be that it approximates the level of crystalline silica found in natural stone such as granite and marble. This is also reflected in the definition of engineered stone under Regulation 5 of the OHS Regulations:

Engineered stone is also known as reconstituted, artificial or manufactured stone and quartz conglomerate. It is a manufactured composite stone material that contains resins and has a crystalline silica content of 40 per cent or greater.

While Smartstone is not aware of scientific evidence supporting the 40% silica content level as the threshold below which the material is safe, it follows logically that lower levels of crystalline content must reduce the risk of silica-related disease in the manufacture of engineered stone.

Rather than a blanket prohibition Smartstone supports a move to prohibit engineered stone with a silica content above 40%. When combined with mandating and stricter enforcement of safe work practices, the transition to a low-silica engineered stone product should all but eliminate the risk of exposure to RCS.

To this end, the industry has made significant progress toward a lower-silica product from both a manufacturing and product development standpoint.

Smartstone has been working on the development, manufacture and testing of a low silica product range since 2018 and today the product is available nationally in 29 colours. By June 2023, we expect to complete all stock to a low-silica formulation.

Since November 2022, all Smartstone surfaces have also been manufactured using a proprietary formulation Smartstone NewGen, a low silica, 56%-recycled engineered stone that represents a sustainable and responsible offering in the market.

All NewGen surfaces will be lower than 38% silica content; all but two of the colours are below 28% and some are as low as 11%.

Smartstone's low-silica product is tested and certified in Australia by an independent assessor, Sydney Laboratory Services, a division of A. D. Envirotech Australia (NATA Accredited No:

14664). The certification process includes ongoing testing of material in randomly selected containers and recording of test results.

Smartstone is committed to ongoing product research and development to further reduce silica levels in its products.

The higher recycled content of glass and minerals in Smartstone's product ensures high performance and durability while also offering global environmental accreditations including NSF, Greenguard and Greenguard GOLD. The Smartstone collection of surfaces spanning New Gen and also Ibrido and Porcelain is comparable to low-silica alternatives such as marble, granite, porcelain and ceramic.

Smartstone believes firmly that an industry-wide transition to low-silica engineered stone product should be a key measure as part of an integrated solution to eliminating exposure to RCS.

3. How many businesses work with engineered stone only?

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

Smartstone Australia has transacted with over 737 stone mason businesses nationally that employ an estimated 8000 employees. Many of these businesses are small operators and until recently would have manufactured a combination of engineered stone and natural stone such as marble and granite. Only a small proportion of the stonemasons (we estimate 20%) manufacture porcelain, which has become more popular in recent years.

The number of stonemasons working solely with engineered stone has increased as the material has become more popular among home renovators and developers. Industry estimates vary but our best estimate is that today engineered stone represents around 55% of the Australian market by volume.

Any consideration of the economic impact of a prohibition on engineered stone must also take into account the role of this product in the wider building materials supply chain.

Like most engineered stone suppliers Smartstone sells into both residential and commercial markets, where our product is used primarily for benchtops and similar applications. The raw product is imported by Smartstone, specified by architects and designers on residential new developments, renovations and commercial fit out projects, and then fabricated by manufacturers (stonemasons) before being delivered to builders, kitchen makers and cabinet-makers for installation.

The numbers of participants in this supply chain – servicing a highly fragmented industry – is in the tens of thousands. Each of them has come to rely heavily on engineered stone as a core component in their business mix; the product is reliable and consistent, of a high quality, aesthetically pleasing, easy to use and popular with end users.

5. 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?

Smartstone has been working on the development of its New Gen formula which includes 56% recycled glass. New products that replace the quartz in engineered stone with materials that contain little or no silica, such as glass and feldspar must also be handled using the exactly the same safety procedures and equipment to reduce the risk of silicosis to workers.

In relation to Option 3, do you have:

a) 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?

In response to the Victorian regulations Smartstone has developed an engineered stone product that has less than 38% silica content and this product is now stocked nationally. In our view it is inevitable that the industry will transition to lower-silica engineered stone; Smartstone is at the leading edge of this transition. (More detail on our transition to low-silica product is included the following section).

Smartstone strongly supports a national licencing scheme, as an important step in forcing under-capitalised and compliance-shy operators out of the market.

After licensing was introduced in Victoria in November 2022, although only one third of all Victorian stonemasons have been granted a license (the remaining two thirds have applied for a license and are currently being assessed) approximately 20 stonemasonry businesses have closed due to their being unable to comply with the new licensing regulations.

In summary, **Smartstone confirms its support for SWA's Option 3:** a prohibition on the use of engineered stone containing 40% or more crystalline silica and (strict) licensing of PCBUS working with engineered stone.

It is critical that any new national regulatory regime comes with sufficient funding such that regulators can conduct regular and comprehensive inspections nationwide and enforce non-compliance. Smartstone is aware of a number of manufacturers that continue to knowingly engage in unsafe practices in NSW, which masons confirm are yet to be inspected by Work Safe NSW.

b) feedback on the implementation of concurrent licensing schemes for both prohibited engineered stone and non-prohibited engineered stone?

Smartstone supports the Victorian licensing scheme for employers working with engineered stone.

In considering regulation of the engineered stone industry it is worth noting that engineered stone is just one of many industries that use high-silica products. Consistency of policy-making

demands that any regulation imposed on engineered stone should therefore be extended to these other industries.

We see the Victorian scheme as a useful reference point in implementing a national licensing scheme for silica-exposed industries, imposing clear duties and obligations on manufacturers and suppliers.

Properly constructed, a national licensing scheme would achieve the following objectives:

- Regulating high-risk crystalline silica processes for all crystalline silica materials (not just engineered stone)
- Improving awareness among PCBU's of their duties under the model WHS legislative framework, including requirements to undertake air monitoring and provide health monitoring and training to workers, and
- Providing a framework for development of appropriate silica risk control plans and additional specific safety measures

In line with SWA's Option 3, the licensing regime would apply to engineered stone industry participants handling materials with silica content below 40%, effectively excluding (or prohibiting) product with higher silica levels.

Smartstone sees no issue with concurrent licensing regimes operating for companies handling (a) engineered stone with low silica content (less than 40%) and (b) prohibited stone with high silica content (above 40%) in special circumstances that are exempt from the general prohibition.

6. 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.

Yes, Smartstone agrees broadly with the assumptions made in Option 6.

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

Observations on the industry's progress in improving safety.

Industry and Government initiatives over the past four years have made an appreciable impact on safety in workplaces where engineered stone is manufactured. These initiatives include reducing the acceptable limits of workplace exposure, banning uncontrolled dry cutting and introducing new codes of practice.

Following these initiatives, Smartstone has observed improved work practices at stonemasonry facilities and a genuine commitment to safety measures – such as onsite washing of staff workwear - that go beyond current legislated controls.

In the past 3 months Smartstone executives have visited more than 80 stonemasons as part of a program to understand better the conditions under which engineered stone is fabricated. These visits revealed:

- Significant compliance with state and federal safety and licensing requirements, in contrast to recent media reports.
- Significant investment in processes, procedures, equipment and machinery to improve safety and minimise or eliminate exposure to RCS.
- Widespread support among stonemasons handling engineered stone for lower-silica content in the products they handle.
- Only a small minority of operators continuing to operate in a non-compliant way, with these operators highly likely to exit the industry in the face of new stringent legislation and regulation.

It became abundantly clear to Smartstone through this program that the viability of the stonemasonry businesses visited is underpinned by engineered stone, which accounts for the bulk of their work. A blanket prohibition would almost certainly threaten their viability and the livelihoods of the hundreds of masons they employ.

Unintended consequences of a blanket prohibition on engineered stone.

As many industry participants have noted, engineered stone is a \$400million national industry supporting thousands of mostly small businesses and employing thousands of individuals.

A prohibition on the sale of all engineered stone (SWA Option 1 in the consultation paper) would see the industry – suppliers, distributors and manufacturers - all but shuttered, at significant economic cost and personal cost to individuals involved. Supporting industries such as design, marketing and transport are also affected.

Aside from the direct impact on the engineered stone industry and its participants, there are other consequences arising from a complete prohibition of engineered stone:

- A lack of suitable alternative or substitute products in the absence of engineered stone. Natural stone and porcelain also contain varying levels of silica, while constraints on supply of particle board (which sister business HVG Manufacturing has experienced first-hand) mean there will not be adequate supply of laminate benchtops to meet expected demand in the absence of engineered stone.
- Heightened uncertainty and supply pressures in the housing and building sector. Smartstone has already observed an increase in the level of inquiries from stonemasons and high-volume home builders wanting to secure the supply of Smartstone's low-silica range. Builders are concerned about supply, delays in build times and the risk of having to turn to less durable and aesthetically pleasing alternatives.
- Many thousands of households across Australia currently have an engineered benchtop installed in one or more applications. The psychological impact on these households knowing they have a banned product in the home, in food preparation areas is not well understood, nor is the cost of their possibly having to remove the material.

8. 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?

Should there be a prohibition on the use of engineered stone containing 40% or more crystalline silica we would expect that there be a 12-month transition period that would allow manufacturers and distributors of engineered stone above 40% to sell current stock holdings and fulfill existing orders.

It is worth noting that a full ban on engineered stone would cause significant disruption to the construction industry with an estimated 200,000 new house dwellings and unit constructions each year as well as another estimated 150,000 home renovations including kitchen renovations and requiring benchtops. Even a move to <40% silica will have a significant impact on selections, supply and willingness to use the current high silica products.

Evidence of the level of disruption should be sought from the HIA and kitchen and building companies.

9. 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.

10. 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.

In summary, Smartstone appreciates that ensuring the safety of workers exposed to risks associated with engineered stone is the highest priority, ranking ahead of any consideration of the economic costs of regulatory action. Nevertheless, the economic contribution of the industry should give regulators pause to ensure all other pathways to ensuring safety are explored before taking the drastic step of closing the industry down.

The SWA's Option 3 presents such a pathway - a regulatory solution that supports the transition to a safer, lower-silica product coupled with a licensing regime that provides a clear framework for mandating and enforcing safe manufacturing procedures.

Smartstone reiterates again its preference for Option 3 as the optimal regulatory response to risks associated with manufacture of engineered stone.