



## **Public consultation on the prohibition on the use of engineered stone**

**Submission by:**

Unions NSW

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## **Introduction**

Unions NSW welcomes the opportunity to make a submission to SafeWork Australia's Public consultation on the prohibition on the use of engineered stone. Unions NSW is the peak body for NSW Unions. Unions NSW represents approximately 60 affiliated unions comprising over 600 000 members. These unions represent a diverse range of workers from both blue and white-collar industries.

## **Background**

Unions NSW has been extremely concerned about the increase in diseases such as silicosis over recent years. Silicosis is a progressive disease of the lungs that is caused by the inhalation of minute particles of silica dust – 100 times smaller than a grain of sand. Silica dust (crystalline silica) is found in some stone, rock, sand, gravel and clay. The most common form is quartz. The higher the concentration of silica in the material determines the level of danger associated with dust inhalation.

About two decades ago “engineered stone” became very popular for use in kitchen and bathroom “bench tops”. Engineered stone is a manufactured composite stone material that contains resins and has a crystalline silica content of 80 per cent or greater. Some material is around 95% silica.

In the mid-2010s Australian doctors noticed an increase in young patients presenting with an aggressive form of silicosis. Previously most sufferers of silicosis were workers in construction, mining, quarrying and foundries who

developed chronic lung damage after exposures of more than 10 years. However, the new group were presenting with significant lung damage following less than 5 years of exposures.

*'I have never seen such severe cases of silicosis in my professional life'*

Associate Professor Deborah Yates, Occupational Respiratory Physician

1 in 5 stoneworkers are expected to develop silicosis. The disease is incurable and irreversible.

This is not just an issue for the engineered stone industry. Australian workers across a broad range of industries are being exposed to carcinogens and dust that cause silicosis.

In 2019, Work Health and Safety Ministers across Australia agreed to reduce the workplace exposure limit for respirable crystalline silica, from 0.1 mg/m<sup>3</sup> to 0.05 mg/m<sup>3</sup>.

As stated silicosis is not curable, even when exposure is stopped the disease can continue to worsen. Crystalline silica causes chronic silicosis, acute silicosis, accelerated silicosis, lung cancer and a variety of autoimmune diseases. Engineered stone products are imported into Australia. Fabrication and fitting into commercial and residential buildings undertaken by often small to medium workshops

where the owners are also exposed. For many owners and workers English is not their preferred language.

Legislative change is crucial however the regulation of these industries is vital. Without this it is clear workers will continue to die as PCBU's are not complying with laws or safety requirements. Given much of this work is hidden throughout the suburbs of NSW in the domestic home renovation sector is extremely hard to police, and for this reason Unions NSW does not support the continued importation of manufactured stone products.

Engineered stone importers would have been aware of the risks as similar "outbreaks" of disease have been observed in throughout Europe and Israel. Early reports were published in 2002 in the medical literature. Much of the product is manufactured in Spain, Italy, Israel and China.

It's important to note that the re-emergence of silicosis has been preceded by "re-emergence" of coal workers pneumoconiosis, black lung. An equally well known well documented preventable lung disease. Another example of systemic failure.

These 'Dickensian Era' diseases should not be seeing a revival in the 21<sup>st</sup> Century. We have the capacity to prevent these diseases but we do not seem to have the will.

Australia is also in tunnelling work transport network construction boom [more tunnelling has occurred in the years 2016 to 2023 than the past two decades].

*Around **4,000 workers [11]** are required to support each major tunnelling project, and with **seven major** projects occurring in 2018, there appears no greater time to use best practice approaches to prevent illness and disease in those who work to support this sector.<sup>1</sup>*

The occupational tasks with the greatest exposure include:

- Tunnelling
- Engineered stone bench top fabrication
- Manual building demolition
- stone masonry
- inground construction work
- concrete block production
- brickwork and clay products
- fibre cement cutting
- concrete block laying
- concrete grinding.

It is becoming clear that all these industries are not being adequately 'policed' by the Regulator. Eliminating the most dangerous of these occupational tasks makes sense. It will eliminate the need to search for and monitor a hidden and extremely dangerous industry.

The emergence of an entirely preventable disease, for a non-essential product where there are alternative products must be opposed. Young workers waiting in line for lung transplants for less than another 10 years life is a result of a systematic failure of our health and work health and safety

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<sup>1</sup> Investigating best practice to prevent illness and disease in tunnel construction workers Kate Cole, 2016 Churchill Fellow page 6

regulatory systems. There are not enough lungs available for transplants and most of these young workers will not receive the transplant they need to extend life.

1 in 5 stoneworkers are expected to develop silicosis. The disease is incurable and irreversible. Granite also poses significant risks and given it is a natural product the Regulator should turn its resources to regulating the products that can not be eliminated.

In 2019, Work Health and Safety Ministers across Australia agreed to reduce the workplace exposure limit for respirable crystalline silica, from 0.1 mg/m<sup>3</sup> to 0.05 mg/m<sup>3</sup>.

The Minister at the time did reveal in a press conference he would consider lowering the exposure rates to silica to 0.02, however to date there has been no action taken in NSW to reduce exposure levels.

All exposures to silica need to be prevented, regardless of the source of exposure.

We have no knowledge of any control measures or protections put in place to protect auxiliary and support workers at worksites with high concentrations of silica dust. Unions NSW is aware that some of these administrative workers have contracted silicosis.

Manufactured benchtops also contain other materials that pose health risks. Engineered stone also contains epoxy resins used as binding agents to form a protective coating

over freshly produced silica particles increasing their toxicity. These have been associated with other occupational lung diseases including asthma and hypersensitivity pneumonitis.

### **Health screening**

The Victorian and Queensland Governments provide free health screening for all workers exposed to dust. This needs to occur in NSW. Health monitoring in NSW is free in limited circumstances and inadequate because it focused on chest X-rays which have been proved to be ineffective in picking up the disease. HRCT (High Resolution Computed Tomography) screening is needed. Western Australia has legislated the use of HRCT as health surveillance for silica workers.

Victoria has also set up a dedicated public occupational respiratory clinic.

NSW has a great deal of work to do to catch up to other States. Eliminating this hazard will assist in preventing some very serious lung diseases and will allow for greater regulation of other dust related industries.

### **Regulatory Oversight**

Questioning during Estimates suggests that as of 30 September 2021 there have been 318 visits to 144 manufactured stone sites. 189 silica related improvement notices were issued along with 7 prohibition notices. Since July 2019 in Victoria there have been more

than 1000 silica related workplace inspections and more than 450 compliance notices.

It is unclear how many SafeWork Inspectors specialise in silica and silica compliance. Given the dismantling of SafeWork NSW or the 're-alignment' of SafeWork NSW into one regulatory department under the Department of Customer Service Unions NSW is concerned that the specialised knowledge that once existed within WorkCover NSW may no longer exist. It is clear the regulator has not had the resources or the will to adequately monitor, police or prosecute breaches in all dust producing industries.

## Conclusion

All workers exposed to dust containing crystalline silica are at risk of developing serious lung conditions. Unions NSW does not want to see a return to the days where the average life expectancy of workers in industries exposed to silica in tin mining was 37.<sup>2</sup> But sadly this is what we are seeing. The extent of the problem is not yet known in NSW. Young workers are dying. Given the difficulties associated with policing all industries where workers are exposed to silica dust and ensuring all PCBUs are implementing all control measures necessary to prevent injury, Unions NSW does not believe engineered stone should be imported and added to the burden of vigilant oversight. It is a product which is a fashionable product, not a necessary product. Benchtops can

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<sup>2</sup> Beris Penrose, 'Medical Monitoring And Silicosis In Metal Miners: 1910-1940' (2004) 69 (3) *Labour History Review* 287



be made from other products and fashions come and go. No worker should die for the sake of a fashion item.

# 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](mailto: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

Unions NSW

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.

Yes. Unions NSW has attached a submission outlining our position.

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.

Click or tap here to enter text.

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.

Unions NSW is concerned that all engineered stone products present significant risks to workers. They contain resins which are known to cause occupational lung diseases. Granite contains approximately 40% silica and has killed workers. Unions NSW does not see the need to import yet another engineered stone product when other products already exist. It is a fashion item and fashions change. And come and go.

4. How many businesses work with engineered stone only?

Unions NSW does not have data for the following questions. Please see attached submission.

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.

<b>Business type</b>	<b>Description</b>	<b>Sole traders and small business</b>	<b>Medium business</b>	<b>Large business</b>
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			
	Number of people employed			
	Average yearly revenue (approximate, rounded to nearest \$1000)			
	Proportion of business activity involving ES with $\geq 40\%$ silica			
	Proportion of business activity involving ES with $<40\%$ silica			
	Proportion of business activity involving non-engineered stone products			

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?

Click or tap here to enter text.

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?

Click or tap here to enter text.

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.

Click or tap here to enter text.

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

Click or tap here to enter text.

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?

[Click or tap here to enter text.](#)

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?

[Click or tap here to enter text.](#)

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.

[Click or tap here to enter text.](#)