



**Tackling
Occupational Lung
Disease -
the pathway forward**

Executive summary

In June 2021, the National Dust Disease Taskforce (the **Taskforce**) advised in its final report that “systemic change is required to improve protection for all people who work in dust generating industries”.

This is a view shared by Caesarstone Australia Pty Ltd (**Caesarstone**). For over 20 years, Caesarstone has advocated for improved safety standards in the engineered stone industry.

The Taskforce made seven recommendations (**Recommendations**) to be actioned by government without delay. This document sets out the steps Caesarstone asks Federal, State and Territory Governments to take to implement the Recommendations, protect workers and preserve industry. Notably, and in line with the Recommendations, Caesarstone proposes nationwide uniform regulations, mandatory licensing for those who process engineered stone and increased regulatory enforcement.



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Introduction

Introduction

Caesarstone is one of the leading suppliers of engineered stone in Australia.

Engineered stone is made from quartz (also known as silica), which is mixed with resins and pigments to form an engineered stone 'slab'. The slab is then prepared, or fabricated, to order and is typically used for kitchen or bathroom benchtops. It is a safe product and safe to fabricate provided the correct safety practices are employed – as noted by the NSW Government: “ In NSW, field observations by SafeWork NSW have evidenced that [silica] exposure can be managed with appropriate risk controls in place.”

The fabrication of engineered stone is a separate and independent process to the supply of the products. It is performed by independent companies, businesses or sole traders (stonemasons), which provide fabrication services for builders on behalf of end-users. For the purposes of this document, a “fabricator” means an organisation (body corporate or otherwise) and its employees or a sole trader who provides fabrication services.

There are approximately 1,000 fabrication businesses in Australia employing more than 7,000 individuals and supporting 20,000 indirect jobs. Currently, individuals are not required to obtain any formal training or qualification to work for or as a fabricator. The requisite fabrication skills and techniques are learned through experience and ‘on the job training’, which invariably differs substantially between fabricators.

As a result, since it commenced operations in Australia in 2000, Caesarstone has been undertaking significant

measures to promote safe fabrication practices. Efforts include (but are not limited to) updating and regularly distributing the engineered stone Material Safety Data Sheets, providing health and safety, information guidance and training to fabricators (including a safety DVD for the industry) and introducing and updating the Fabrication Manual. Caesarstone has also been actively involved with Safe Work Australia and respirable crystalline silica (**RCS**) taskforces in Queensland and NSW.

Nevertheless, there has been a rise in diseases related to high exposures of RCS, such as silicosis, in recent years. These diseases have been attributed to, in part, non-compliance with safe fabrication practices of engineered stone.

Consequently, the Taskforce was convened in 2019 by the then Chief Medical Officer, Professor Brendan Murphy, to study and provide recommendations to combat the re-emergence of occupational lung disease. The Taskforce published its Final Report in June 2021 and advised that “it is clear that existing WHS laws have failed to protect workers from developing silicosis”. The Taskforce said “immediate action is required” and provided a “cohesive set of actions designed to be implemented concurrently, and as a package”.

Given Caesarstone’s extensive experience in and knowledge of safe fabrication practices, it seeks to offer its expertise to assist governments implement the Taskforce’s Recommendations in a timely and effective manner.

**The current
regulatory framework –
the protections and
its problems**

The current regulatory framework – the protections and its problems

The regulation of safe fabrication practices in Australia is largely state and territory based.

In 2011, the Federal Government enacted the model work health and safety laws (**Model WHS Laws**), which form the benchmark for most state and territory WHS laws in Australia. Fabricators are subject to the Model WHS Laws, which have been implemented in all states and territories (with some variations) except for Victoria and Western Australia, which have different work health and safety regimes.

The Model WHS Laws impose substantive obligations on all fabricators to:

- Ensure the health and safety of workers so far as reasonably practicable; and
- Manage workers’ exposure to RCS by providing a safe work environment (which includes an obligation to ensure RCS exposure is limited to 0.05 mg/m3).

Unfortunately, current Model WHS Laws provide limited guidance on how a fabricator can meet these obligations.

Safe Work Australia is in the process of developing a national code of practice for managing the risks of working with RCS. Although this is to be welcomed (subject to the contents of the code), there remains variation in regulations, safe fabrication practice guidance and enforcement by regulatory bodies.

This has resulted in noncompliance by fabricators, as evidenced by:

- State-based regulators’ enforcement data. For example:
 - (i) in 2020 SafeWork NSW advised that it had inspected all 246 fabricator sites in NSW and issued a total of 699 notices (see: NSW Government Submission to the Taskforce Consultation Paper, November 2020);
 - (ii) in 2020 WorkSafe Queensland advised that it had audited 150 fabricator sites and issued 600 compliance notices (see: WorkSafe Queensland publication “Queensland backs new workplace crystalline silica standards”, April 2020);
- the increased number of fabricators diagnosed with RCS-related diseases such as silicosis;
- the Australian Institute of Occupational Hygienists’ observation that, “*some workplaces may be far from compliant with the current [work exposure standard] either through a lack of regulatory enforcement or simply through a lack of awareness*” (see: Australian Institute of Occupational Hygienists, “Respirable Crystalline Silica and Occupational Health Issue Position Paper”, 2018).; and
- Caesarstone’s interaction with fabricators indicating a lack of awareness and understanding of regulatory obligations and safe product handling practices.

It is clear that Federal, State and Territory Governments must act now and follow the Taskforce’s advice and ensure “systemic change” is implemented expeditiously.

**The proposed solution –
a national strategy**

The proposed solution - a national strategy

Following the Taskforce's report, three critical components must be effected to tackle occupational lung disease. These are as follows.



1. Nationally consistent regulations and safety guidelines.



2. Mandated fabrication licences.



3. Increased compliance and enforcement measures.

Hereafter we refer to the above measures collectively as the **Reforms**.

Nationally consistent regulations and safety guidelines (Regulations)

The Taskforce's first recommendation to the Federal Government calls for it to "strengthen work health and safety measures to ensure workers are protected from exposure to respirable crystalline silica and its devastating consequences". Further, recommendation 1.c advises the Government to "take immediate action to ensure that businesses working with engineered stone demonstrate that they:

1. Effectively and continuously manage the risks for workers associated with working with engineered stone.
2. Regularly monitor and record silica dust levels in the workplace, and have these results validated by an appropriately trained occupational hygienist.
3. Conduct regular health monitoring of all workers exposed to respirable crystalline silica."



To effect these recommendations, Federal, State and Territory Governments should agree on and implement consistent national regulations and safety practices governing each industry with a risk of occupational lung disease. For the engineered stone industry, this means all employers and self-employed fabricators be subject to the same rigorous workplace health and safety standards and requirements. These standards should include the following.

a) Duties on employers

Employers and self-employed fabricators must:

1. Ensure the workplace exposure standard of 0.05mg/m³ TWA is not exceeded and workplaces are adequately ventilated;
2. Undertake atmospheric monitoring in workplaces where a fabrication process of a product with RCS content (**Controlled Product**) takes place (and be obliged to have the results validated by an occupational hygienist and provided to the regulators or their agents where required);
3. At mandated intervals conduct health monitoring of employees who undertake Controlled Product fabrication processes;
4. Report cases of silicosis to the National Occupational Dust Disease Registry (see: recommendation 1.b);
5. Ensure power tools are not used in the fabrication process unless on-tool water dust suppression devices are in place and appropriate personal respiratory protective equipment is provided and used;
6. Provide adequate information to job applicants and existing employees on the risks associated with exposure to RCS along with the practices that must be undertaken to mitigate those risks; and
7. Hold an engineered stone fabrication licence if an engineered stone fabrication process is undertaken at a workplace for which they are responsible (see below).

b) Duties on manufacturers and suppliers

Manufacturers and suppliers should be obliged to provide clear information about the Controlled Product they manufacture and/or supply. Prescriptive Controlled Product disclosure requirements should be introduced.

How fabricators can meet the regulatory requirements should also be clearly communicated in SafeWork Australia's national code of practice for managing the risks of working with RCS. The national code of practice must be adopted by, and applied consistently across, the States and Territories.

Mandated fabrication licences

Recommendation 1.c of the Taskforce's Report advised that the government should "urgently... consider... a licensing scheme or equivalent to restrict access to the product to those businesses that can demonstrate the ability to effectively manage the risks". In line with this recommendation, we suggest the States and Territories follow Victoria's lead and implement a licensing scheme without delay. The licensing provisions should include the following.

a) Duties on employers and self-employed fabricators

- Employers and self-employed fabricators should be required to hold a fabrication licence if fabrication of a Controlled Product is undertaken at a workplace for which they are responsible (hereafter **Fabrication Licence** or **Fabrication Licensing**).
- Fabrication Licences should only be granted if the applicant proves their ability to comply with the Regulations and provide a safe workplace.

b) Duties on manufacturers and suppliers

- Suppliers and manufacturers of engineered stone should be prohibited from selling Controlled Products to unlicensed fabricators (**Restricted Sale Provision**).

c) Regulators

- Relevant workplace safety agencies to have the power to grant, suspend and cancel Fabrication Licences.

d) Other - Regulations to specify or address:

- Who can apply for a Fabrication Licence.
- What information must be provided in a Fabrication Licence application.
- The requirements that must be met to be granted a Fabrication Licence (namely they can demonstrate that they comply with the Regulations).
- The grounds for suspension or cancellation of the Fabrication Licence.
- Those who purchase engineered stone from fabricators (for example construction and kitchen companies) should be prohibited from buying and installing materials from unlicensed fabricators.
- The risk of unlicensed fabricators importing Controlled Products to circumvent the Restricted Sale Provision. This may be addressed by providing that Controlled Products may only be sold by registered suppliers who undertake to comply with the Regulations.

Increased compliance and enforcement measures (Increased Enforcement)

The Taskforce recommended that “greater priority be given to work health and safety monitoring and compliance activities where workers are at risk of exposure to respirable crystalline silica. Specific consideration should be given to:

a) Development and introduction of an industry funding model to support ongoing regulatory activities.

b) Increased frequency and robustness of workplace inspections and better promotion of actions taken by WHS regulators.”
(Recommendation 1.b)

Therefore, the following measures should be implemented.

Regulators should:

- Increase spot-checks and site inspections of fabricators, record compliance data and issue enforcement notices (the contents of enforcement notices and their recipients to be publicly available);
- Undertake annual compliance audits of Fabrication Licence-holders and suppliers, making their findings publicly available to suppliers of engineered stone;
- Be empowered to impose fines on suppliers and manufacturers of engineered stone who supply Controlled Products to unlicensed fabricators or otherwise fail to comply with Regulations; and
- Have the power to fine fabricators and/or suspend or cancel Fabrication Licences (and require them to cease operations) in the event of non-compliance with Regulations.

**The solution –
implementation and
measurement**

The solution - implementation and measurement

The Taskforce recommended that “by the end of 2021, the Commonwealth Government, in consultation with jurisdictions, will outline a clear plan for implementation of the Taskforce’s recommendations with specific milestones, responsibilities of parties, and outcome measures identified”. (Recommendation 7.d). To assist this process, we have suggested implementation timelines regarding the introduction of the Reforms and the responsibilities of the various parties. Significantly, it is proposed that:

1. Increased and frequent compliance occurs within 6 months, including random inspections by regulators nationwide and current compliance rates measured (this process to be repeated annually) (**Compliance Inspections**);
2. The development of Regulations and Fabrication Licensing is to be led by the Federal Government in conjunction with the States and Territories and supported by industry and regulators;
3. Within 12 months, the Reforms are enacted, fabricators are granted a 6-month transitional period to obtain a Fabrication Licence (**Transitional Period**) and the National Occupational Respiratory Disease Registry is operationalised;
4. Regulators are to supply Health, WHS and related ministers (**Ministers**) in each jurisdiction annual reports on the implementation and effectiveness of reforms (in line with Taskforce recommendation 7) (**Annual Implementation Reports**);
5. After 18 months, the Fabrication Licensing scheme is effective - unlicensed fabricators are prohibited from purchasing Controlled Products from this date. A database of licensed fabricators will be publicly available to manufacturers and suppliers, to ensure selling to fabricator licence-holders only;
6. Following the 24th month, the first annual audit is undertaken on Fabrication Licence-holders (**Annual Licence Audit**);
7. On a date that is five years after the commencement of the Fabrication Licensing scheme, the Taskforce (or a similar body) undertakes a review of the effectiveness of the Reforms and advises government accordingly (**Reform Review**).

It should also be noted that throughout this period, regulators will issue enforcement notices to non-compliant fabricators, suppliers and manufacturers. Data on compliance rates and incidents of disease will be recorded and, as detailed above, issued enforcement notices will be made public.

Reform Review

We acknowledge that the Taskforce recommended a ban on the importation of engineered stone if by July 2024 “there is no measurable and acceptable improvement in regulatory compliance rates for the engineered stone sector” and “evidence indicates preventative measures are not effectively protecting those working with engineered stone from silicosis and silica-associated diseases” (see: Report recommendation 1.d).

While we agree a ban of certain high-RCS-content Controlled Products should not be ruled out if the Reforms do not tackle the re-emergence of silicosis, sufficient time must be allowed to properly measure the effectiveness of the Reforms. Banning the product in 2024, shortly after the implementation of reforms to tackle the problem makes little sense; it would not be possible to measure the effectiveness of the Reforms at that juncture and would be a significant waste of public, industry and fabricator resources. Therefore, we have suggested the Reform Review occur five years after the date of commencement of the Fabrication Licensing scheme.

This is consistent with the review periods for other national safety laws. For example, the National Transport Commission’s review of the effectiveness of the Heavy Vehicle National Law (HVNL) and its regulations occurred five years after their commencement.

The Reform Review should assess the success of the Reforms against clear regulatory compliance rate targets that have been communicated to industry within the next 6-12 months (**Compliance Targets**) and be informed by the results of the:

- Annual Licence Audits;
- Compliance Inspections;
- Annual Implementation Reports;
- Data of the National Occupational Respiratory Disease Registry; and
- Research commissioned to measure the effectiveness of the Reforms at protecting fabricators from RCS-associated diseases.

A ban should be considered on certain Controlled Products if the Reform Review indicates the Compliance Targets have not been met and the Reforms are failing to prevent occupational lung disease in fabricators.

Reform milestones								
	3 months	6 months	12 months	18 months	24 months	30 months	36 months	5 years following commencement of Reforms
Regulations and Fabrication Licensing	Anticipated introduction of Fabrication Licensing scheme communicated to fabricators.	Draft Regulations agreed by jurisdictions. Fabricators are advised of anticipated Fabrication Licensing requirements and application process, noting Transition Period that will apply.	Draft Regulations and increased duties enacted. Fabricators notified of Transition Period.	Fabrication Licensing scheme effective. All fabricators required to hold Fabrication Licence by this date.	First Annual Licence Audit.		Second Annual Licence Audit.	
Increased Enforcement	Notices issued to all fabricators advising of anticipated forthcoming Fabrication Licensing scheme. Assessment undertaken as to additional resourcing required to meet Increased Enforcement.	First Compliance Inspections completed.	Fabricators are notified of new Regulations and Transition Period. Suppliers and manufacturers have access to the database of licensed fabricators.	Second annual Compliance Inspections completed.	Fabricators who do not pass Annual Licence Audit issued with enforcement notices (which may include exercise of new powers to suspend or cancel Fabrication Licences). Enforcement notices also issued to suppliers/ manufacturers who supply Controlled Products to unlicensed fabricators.	Third annual Compliance Inspection completed.	Second Annual Licence Audit undertaken.	
Outcome measures		Compliance Targets agreed by governments. National Occupational Respiratory Disease Registry is operationalised. Regulation compliance rates and annual disease rates recorded.	First Annual Implementation Report provided to Ministers	Regulation compliance rates and annual disease rates recorded.	Second Annual Implementation Report provided to Ministers. Regulation compliance rates recorded.	Regulation compliance rates and annual disease rates recorded.	Third Annual Implementation Report provided to Ministers. Regulation compliance rates recorded.	National Dust Disease Taskforce (or a similar body) assesses whether Compliance Targets met and the effectiveness of Reforms.

Responsibilities of parties

<p>Governments</p>	<p>Publicly announce anticipated introduction of Fabrication Licensing scheme and Increased Enforcement.</p> <p>Communicate to regulators anticipated Increased Enforcement requirements.</p>	<p>Federal Government to:</p> <ul style="list-style-type: none"> • negotiate uniform Regulations for adoption by State and Territory Governments. • Agree Compliance Targets with States and Territories. • Determine source of additional resourcing for Increased Enforcement (including consideration of industry contribution) • Operationalise the National Occupational Respiratory Disease Registry. • Publish draft Reforms including guidance on likely Fabrication Licence requirements. 	<p>States and Territories have passed legislation adopting Reforms.</p> <p>Ministers review first Annual Implementation Report and assess progress.</p>	<p>Publicly remind industry that Fabrication Licensing scheme is effective.</p>	<p>Ministers review second Annual Implementation Report and assess progress.</p>		<p>Ministers review third Annual Implementation Report and assess progress.</p>	<p>Governments review and act on National Dust Disease Taskforce Reform Review report.</p>
<p>Regulators (workplace safety agencies)</p>	<p>Provide Federal, State and Territory Governments with estimated additional resourcing requirements needed to facilitate anticipated Increased Enforcement.</p> <p>Communicate anticipated introduction of Fabrication Licensing scheme and Increased Enforcement to fabricators.</p>	<p>Assist governments develop draft Reforms.</p> <p>Communicate to fabricators information about the likely Fabrication Licence application process and requirements.</p> <p>Undertake first compliance inspection.</p> <p>Record compliance and disease data.</p>	<p>Notify fabricators of new regulations (including Fabricator Licensing requirements and Transitional Period).</p> <p>Provide assistance to fabricators regarding Fabrication Licence applications.</p> <p>First Annual Implementation Report delivered to Ministers.</p>	<p>Notify fabricators of commencement of Fabrication Licensing Scheme (and that unlicensed fabricators are prohibited from operating).</p> <p>Complete second annual Compliance Inspection.</p> <p>Record compliance and disease data.</p>	<p>Undertake first Annual Licence Audit.</p> <p>Second Annual Implementation Report delivered to Ministers.</p>	<p>Complete third annual Compliance Inspection.</p>	<p>Undertake second Annual Licensing Audit.</p> <p>Third Annual Implementation Report delivered to Ministers.</p>	<p>Support Taskforce with Reform Review report.</p>

Responsibilities of parties								
Suppliers/ manufacturers	<p>Provide governments and regulators with industry expertise and support to ensure Reforms are fit for purpose.</p> <p>Advise fabricators of anticipated introduction of Fabrication Licensing scheme and Increased Enforcement.</p>	<p>Provide governments and regulators with industry expertise and support to ensure Reforms are fit for purpose.</p> <p>Engage with governments as required.</p> <p>Communicate to fabricators information about the likely Fabrication Licence application process and requirements.</p>	<p>Fabricators are notified of new Regulations (including Fabricator Licensing requirements and Transitional Period).</p>	<p>Notify fabricators of commencement of Fabrication Licensing scheme.</p> <p>Cease sale of controlled products to unlicensed fabricators.</p>	<p>Support regulators with First Annual Implementation Review Report.</p>		<p>Support regulators with Second Annual Implementation Review Report.</p>	<p>Support Taskforce with Reform Review report.</p>
Fabricators	<p>Engage with governments (if appropriate) and regulators to ensure Reforms are fit for purpose.</p> <p>Raise queries with regulators regarding Increased Enforcement and anticipated Fabrication Licensing scheme.</p>	<p>Engage with governments (if appropriate) and regulators to ensure Reforms are fit for purpose.</p>	<p>Comply with Regulations and commence steps to obtain Fabrication Licence.</p> <p>Annually report incidents of dust disease to National Occupational Respiratory Disease Registry.</p>	<p>Cease operations if fail to obtain Fabrication Licensing.</p> <p>Fabrication Licence-holders continue operations.</p>	<p>Second annual report of incidents of dust disease to National Occupational Respiratory Disease Registry.</p> <p>First Annual Licence Audit.</p>		<p>Third annual report of incidents of dust disease to National Occupational Respiratory Disease Registry.</p> <p>Second Annual Licence Audit.</p>	<p>Support Taskforce with Reform Review report.</p>

The above Reforms, their proposed implementation and the process to measure their effectiveness represent a coordinated and collaborative response from governments, industry and regulators. This proposal provides a clear pathway to effect the Taskforce’s Recommendations and tackle occupational lung disease in Australia. Caesarstone remains on standby to support governments and regulators as they implement fundamental change to raise safety standards across the industry.