

INQUIRY INTO 2021 REVIEW OF THE DUST DISEASES SCHEME

Organisation: Caesarstone

Date Received: 17 December 2021

12 December 2021

The Hon Wes Fang MLC
Chair NSW Legislative Council Standing Committee on Law and Justice
Parliament House
Macquarie Street
Sydney, NSW 2000

Lodgment by email

Dear Mr Fang

Re: Caesarstone Australia (Caesarstone) submission to NSW Legislative Council Standing Committee on Law and Justice – 2021 review of the Dust Diseases scheme.

1. On 1 September 2021 Caesarstone was invited to make a submission to the NSW Legislative Council Standing Committee on Law and Justice's (**Committee**) review of the Dust Diseases scheme. We understand from the Committee's webpage that "[t]his year's review will provide the opportunity to evaluate the progress of the recommendations made in the 2019 review on the management of silicosis in the manufactured stone industry" (**2019 Review**). Caesarstone is pleased to provide its submission as follows.

Caesarstone

2. Caesarstone is one of the leading suppliers of engineered stone in Australia, having commenced operations in Australia in 2000. Engineered stone is a safe product and safe to fabricate provided the correct safety practices are employed. SafeWork NSW has noted that silicosis is "a disease which is entirely preventable if the correct safety measures are in place".¹
3. Since it commenced operations in Australia, Caesarstone has undertaken significant measures to promote the use of safe fabrication practices. Efforts include (but are not limited to) updating and regularly distributing Caesarstone's Material Safety Data Sheets, introducing and updating the Caesarstone Fabrication Manual, and providing health and safety information guidance and training to fabricators. The guidance and training include the Good Practice Guide and a safety DVD for the industry, as well as an innovative online learning platform named the 'Master of Stone Training Centre', which makes information and working guidelines accessible to fabricators worldwide, with a focus on health and safety issues.

¹ SafeWork NSW, *Silica dust – Final report of the Manufactured Stone Industry Taskforce*, July 2019, p 4.

4. Caesarstone has also been actively involved with Safe Work Australia and respirable crystalline silica (**RCS**) taskforces in Queensland and NSW.
5. Caesarstone is also one of the founding members of the Australian Engineered Stone Advisory Group (**AESAG**), which is comprised of key suppliers of engineered stone products. AESAG was established to respond to the occupational risk of silicosis for stonemasons who fabricate engineered stone without appropriate safety measures in place. Along with introducing other safety improvement initiatives, AESAG developed Australia's first national product handling safety guide.

Caesarstone's position – a national approach

6. Caesarstone fully supports and is grateful for the efforts to date of SafeWork Australia, State SafeWork agencies, the National Dust Disease Taskforce (**NDDT**), cognate State Taskforces and the Committee in combatting occupational lung diseases such as silicosis.
7. Caesarstone generally supports the 2019 Review recommendations and the NSW Government's response to the Review. Caesarstone is supportive of and grateful for the efforts by other states such as Queensland and Victoria to tackle the re-emergence of silicosis.
8. On 15 November 2021, Victoria implemented regulations to introduce Australia's first licensing regime for engineered stone, make permanent Victoria's prohibition on uncontrolled dry-cutting, and add additional regulatory oversight of high-risk crystalline silica work outside of engineered stone across all industries (**Victorian Regulations**). Subject to our comments at paragraphs 23 and 23 below, Caesarstone supports this development in Victoria. Although progress has been made since the 2019 Review, there is still much more to do – as reflected in the finding of the NDDT in June 2021 that "[s]ystemic change is required to improve protection for all people who work in dust generating industries".²
9. Systemic change can only occur if there is a national, consistent and unified approach by governments. As noted by Dr Graeme Edwards, an occupational and environmental physician and member of the NDDT, there must be a "unified, nationally co-ordinated response to this epidemic"³. Indeed, the NDDT was set up by the then Chief Medical Officer, Dr Brendan Murphy, to "develop a national approach to the prevention, early identification, control and management of occupational dust diseases".⁴

² The National Dust Disease Final Report, June 2021 (**NDDT Final Report**), page 10.

³ *Ibid.*, page 7.

⁴ 2019 Review Report, page 103.

10. Caesarstone has consistently supported this approach. Without a unified system, Australia will become subject to regulatory arbitrage whereby those operating in this highly competitive environment may restructure their operations to avoid unfavourable regulation. This will further endanger the lives of workers.
11. Caesarstone respectfully submits that the Committee supports a federally led and state-supported national reform package.

The pathway forward – a national strategy

12. We enclose Caesarstone’s Policy Paper, “Tackling Occupational Lung Disease – the pathway forward”, which sets out a proposed national reform package, implementation plan and a process to measure the reforms’ effectiveness (**Policy Paper**). The Policy Paper outlines a coordinated and collaborative response from governments, industry and regulators, and provides a clear pathway to effect the NDDT’s recommendations and tackle occupational lung disease in Australia.
13. We encourage the Committee to consider and support the reform package set out in the Policy Paper. For ease of reference, we summarise the key elements of our proposal below.
14. We submit that any reform package must implement, nationally, three critical components:
 - (i) Nationally consistent regulations and safety guidelines;
 - (ii) Mandated fabrication licences; and
 - (iii) Increased compliance and enforcement measures (together, the **Reforms**).

Nationally consistent regulations and safety guidelines

15. Federal, State and Territory Governments should agree on and implement consistent national regulations and safety practices governing each industry in which workers are at risk of occupational lung disease. For the engineered stone industry, this means all employers and self-employed fabricators would be subject to the same rigorous workplace health and safety standards and requirements. We refer to the Policy Paper for further detail on the necessary practices and regulations.
16. We note SafeWork Australia has recently published its “Model Code of Practice – Managing the risks of respirable Crystalline Silica from engineered stone in the workplace”. This is Australia’s first national code of practice for the industry, providing industry participants with guidance on how to comply with OH&S laws and protect workers.

17. We also note the NDDT recommended in its interim advice that a National Dust Disease Registry be established, and we understand this is being developed. Caesarstone welcomes the Model Code of Practice and the development of the National Dust Disease Registry; they are significant national developments that move us a step closer towards protecting those most vulnerable. We recommend the Model Code of Practice be made available in digestible video (or other) format to ensure it can be easily accessed and understood by all industry participants.

Mandated fabrication licences

18. Recommendation 1.c of the NDDT 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”*. As stated above, Victoria has recently introduced such a scheme. We urge the Committee and the NSW Government to support the implementation of a national mandatory licensing scheme. Implementation must start without delay.
19. The Committee’s 2019 Review recommended that *“the NSW Government provide an appropriate level of additional annual funding to Safework NSW to strengthen its regulatory enforcement and monitoring of health and safety standards within the manufactured stone industry”*. Similarly, the NDDT recommended *“greater priority be given to work health and safety monitoring and compliance activities where workers are at risk of exposure to respirable crystalline silica”*. Caesarstone shares these views and strongly believes that increased compliance and enforcement measures are fundamental to achieving change in the industry. We refer to our Policy Paper for details of the increased compliance and enforcement measures that we believe should be introduced.

Reforms – time is of the essence

20. While we welcome the progress that has been made to date, the NDDT’s report was delivered in June 2021 and we are yet to receive a formal response from governments. We understand the Federal Government is currently considering the NDDT’s recommendations and appreciate that many State governments are awaiting this before articulating their own positions. This is the correct approach but we urge State and Territory governments to be ready to act immediately upon receipt of the Federal response, which we understand will include a national roadmap for reform. To assist governments in this regard, we have prepared an implementation plan, which appears at pages 17-19 of the Policy Paper.

Reforms – measuring success

21. We acknowledge that the NDDT 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*

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and silica-associated diseases”.⁵ We note that the NSW Manufactured Stone Industry Taskforce considered but ultimately did not support a ban on engineered stone products.⁶

22. That said, we appreciate a that a ban of certain high-RCS-content engineered stone may be considered if reforms do not tackle the re-emergence of silicosis, although sufficient time must be allowed to properly measure their effectiveness. It should be noted that the NDDT was established in July 2019 and it took almost two years to investigate and deliver its report on the issue. Given the reform process will involve implementing change in multiple States and Territories, in the midst of an ongoing national health crisis and during a Federal election, the date on which the NDDT recommended a ban should be considered (July 2024) is extremely premature. Therefore, we submit reform review should occur five years after the date of commencement of the national licensing scheme.

NSW – going it alone

23. Notwithstanding our stance on the need for a national and unified response, we appreciate that the NSW Government may elect to take its own approach. If so, we refer to the Victorian Regulations. If the NSW Government decides to pursue its own course of action, we urge it to adopt reforms akin to the Victoria Regulations in NSW (including the mandatory licensing scheme), subject to the following preliminary observations:

- (i) The definition of engineered stone should be widened so the regulations apply to all materials containing silica (and not just engineered stone that contains 40% or more silica). This is because the workplace risk arises when fabricating any silica-based product (and not just those with 40% or more silica) and regulations should operate to protect those exposed to such risks;
- (ii) The Victorian Regulations do not require the independent audit of control plans prior to the granting of a licence. This should apply to ensure those seeking a licence are fully compliant with regulatory requirements.
- (iii) In addition to the prohibition on selling controlled products to unlicensed fabricators, there should be a prohibition on purchasing controlled products from unlicensed fabricators;
- (iv) There must be a publicly available database of licence-holders so that those who buy or sell controlled products can ensure they are dealing with valid licence-holders.

⁵ NDDT Final Report, *op.cit.*, page11.



24. We would welcome the opportunity to discuss the Victorian Regulations and Caesarstone's position further with the Committee and the NSW Government.

The NDDT Final Report provides advice on how to tackle silicosis nationally. We respectfully submit that the best approach would be for this Committee to recommend that the NSW Government supports, and collaborates with, the Federal Government (and other States and Territories) to implement a federally coordinated reform package, as outlined above. This will allow us to tackle the re-emergence of occupational lung diseases, protect workers and preserve industry.

Your sincerely

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