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**CFMEU COMMISSION OF INQUIRY
STATE OF QUEENSLAND**

STATEMENT OF DAVID CAPPELLETTI

I, **David Cappelletti**, of c/- Crown Law, State Law Building, 50 Ann Street Brisbane, in the State of Queensland, solemnly and sincerely declare:

Preliminary matters


1. I am currently employed as a Principal Inspector (Industrial) for Workplace Health and Safety Queensland (**WHSQ**), within the Office of Industrial Relations (**OIR**). I have been in this role since mid-2024.
2. I have prepared this statement in response to Notice no. 26129 (**Notice**) issued by the Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry (**Commission**).
3. Having regard to the terms of the Notice and noting the frequency with which I have engaged with the CFMEU in my role, I acknowledge that there may be further information I could provide to the Commission which is, strictly speaking, relevant to the terms. I confirm, however, that the matters discussed below are the most significant and most relevant that come to mind, as per the terms of the Notice.

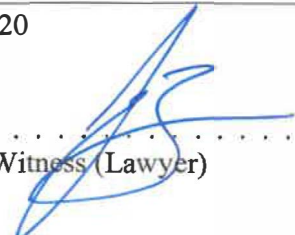
Response to schedule - Notice 26129 dated 20 February 2026

(a) State your full name, qualifications, relevant work history and experience.

4. My full name is David Cappelletti.
5. I have obtained the following qualifications:
 - a) Carpenter and Joiner;
 - b) Certificate IV in Building and Construction;

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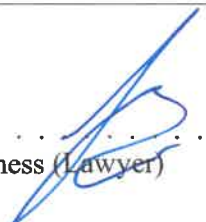

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- c) Builder's licence;
 - d) Building Inspector's licence.
6. At the age of 16, I commenced employment working casually in Brisbane as a bricklayer's labourer for a period of about 12 months. I then obtained full-time employment as a semi-skilled labourer with Brisbane City Council for a period of 18 months. I then commenced a 4-year apprenticeship to become a fully qualified carpenter and joiner. Once qualified, I worked as a carpenter and joiner for period of 6 years within QBuild, which is part of the Department and Housing and Public Works in the late 80s to early 90s.
 7. I then established my own business providing carpentry services and operated that business as sole trader for approximately 8 to 10 years. In the later years, I obtained my qualification as a licensed builder and embarked upon minor construction work.
 8. In November 2004, I commenced a role as Inspector for WHSQ. I initially commenced as an Inspector (AO4) within the Construction team and then progressed to Senior Inspector (AO5) around 2006.
 9. In late 2023, I transitioned from the construction team to the industrial team within WHSQ. Construction inspectors mainly focus on construction workplaces as designated by the legislation, for example, residential and commercial buildings, high-rise buildings, tunnels, bridges and civil construction, whereas industrial inspectors focus on industrial workplaces such as factories, warehouses, and engineering workshops.
 10. In 2024, I progressed to the role of Principal Inspector (AO6) within the industrial team and remain in this role until present.
 11. During my period of employment as an Inspector and Senior Inspector (Construction), I spent about 17 years working on various projects from basic demolition, asbestos complaints, house builds, townhouse projects to major civil sites, including the first major tunnel in Queensland the CLEM7. I have also worked on various high-rise buildings and the Gateway Bridge.


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(b) Describe your duties as an Inspector.

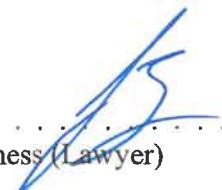
12. As Inspector, I am required to undertake workplace visits using observation, discussion, and review of documents in order to assess matters of risk and compliance. These visits may be initiated by state-wide compliance campaigns (e.g. safety blitzes), workplace assessments (e.g. audits and inspections), or in response to incident notifications or complaints.
13. My general duties include:
- a) investigate workplace incidents;
 - b) investigate reports of unsafe or unhealthy conditions or dangerous work practices;
 - c) conduct inspections and undertake national, statewide and regional audit campaigns;
 - d) provide information and advice on the legislation;
 - e) resolve work health and safety issues;
 - f) review disputed provisional improvement notices;
 - g) undertake compliance and enforcement of the *Work Health and Safety Act 2011 (WHS Act)* and *Work Health and Safety Regulation 2011 (WHS Reg)*;
 - h) provide education for businesses about workplace safety and employers' duties;
 - i) provide first response in respect of workplace incidents; and
 - j) mentor junior inspectors.

(c) Describe the culture of WHSQ during your employment, whether it has changed over time, and if so, what you view as the catalyst for the change or changes.

14. In my first 15 years of employment as an inspector, the culture was a more relaxed, self-governed environment, and inspectors worked as team. It was an environment that was conducive to working together with little to no conflict.

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15. When the Palaszczuk government came into power and Minister Grace Grace was appointed as the Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing, there was a significant change in culture within three to four months. We went from a relaxed and effective workplace to one with a culture of bullying, intimidation and harassment of inspectors by senior managers.
16. I went from being an established and a trusted inspector with full discretion as to how I performed my role in enforcing the relevant legislation to one where my discretion was removed, and I was constantly directed by senior management as to my daily duties. The autonomy of the inspectors was taken away from us.
17. Prior to the Grace Grace era, I could make a decision as to whether I would take enforcement action on any particular issue and what form that would take. In accordance with my training and in compliance with all relevant policies and procedures, I would issue notices and take the relevant enforcement action as required.
18. Under the Palaszczuk government, my role as an inspector was altered to fit the requirements of that government. There were a number of changes to our policies and procedures along with legislative changes. There was a system of bullying and intimidation to force the inspectors to take a more heavy-handed approach in enforcing the legislation.
19. There appeared to be a shift within the inspectorate to a culture of mistrust between management and the inspectors. This mistrust grew from a betrayal by senior management of the inspectors on a regular basis.

(d) Explain, by reference to any relevant policy or procedure, the formal channels of communication set up by WHSQ for stakeholders and the general public to notify WHSQ of incidents at the site of a person conducting a business or undertaking (PCBU).

20. When I first commenced with WHSQ there was a central contact number that all persons called for assistance by our office. I recall about ten years ago WHSQ established a 1300 number which was the only point of contact between WHSQ and anyone wanting to make a complaint, report an incident, or obtain general



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information in relation to anything involving Workplace Health and Safety. This included things such as:

- a) accidents at workplaces;
- b) workplace injuries;
- c) general non-compliance with safety requirements at workplaces; and
- d) speaking to a 'subject matter expert' ('SME') to obtain safety information and advice.

21. In my early years with WHSQ, we would sometimes receive direct phone calls to our mobile phones from stakeholders that we had previously dealt with. That really ceased about 10 years ago.

22. In the later years, a further option of contact with WHSQ was added to the Department's website which enabled persons to lodge a complaint or notify workplace health and safety of incidents online by sending a message over the internet.

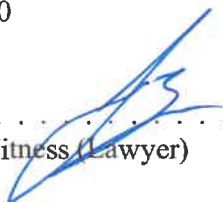
23. The 1300 number, and website option, were the only formal channels of communication set up at WHSQ for members of industry and the public to contact the department. This is generally referred to as a triple A complaint, which is then referred to the triage team for assessment and allocation to the region.

(e) Explain WHSQ's triaging process for managing incident notifications, as you understand it.

24. I have very limited knowledge as to how "assessment advisory services" triage incoming calls and notifications, as I have never worked in that section. However, I do understand that serious accident notifications take priority over any other notification.

25. I understand that they have a documented system which sets out how to triage in accordance with risk, but I don't know what that is and have never seen it.


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(f) Explain the means by which the Union, or people Associated with the Union, contact WHSQ to report an incident, or to request the attendance of an Inspector at a site. Describe any issues or problems caused as a result.

26. Prior to the election of the Palaszczuk government, we were hardly ever sent out to deal with an issue raised by the CFMEU. This position changed after the new government took over. My understanding of the situation was that the CFMEU did not use the triple A contact point, instead they called the Director of Construction which was, for most of the time, Helen Burgess.

27. The issues that were caused by this were:

- a) a lack of consistency in complaint reporting;
- b) no proper records of the complaint were kept, including details such as the identity of the person who made the complaint;
- c) the details of the complaint were not usually questioned; and
- d) the resources of the department were not efficiently managed.

(g) If there was any Union influence over the triaging or managing incident notifications processes, describe the influence and how it impacted on the process for triaging, managing incident notifications and the allocation of work to inspectors.

28. Helen Burgess was the conduit between the Union and WHSQ. I believe that the Union organisers would contact Royce Kupsch who would then contact Helen, or they would contact Helen themselves directly. I learnt this through numerous conversations with dozens of other Inspectors.

29. I have known Royce Kupsch for 21 years. I met him when I joined WHSQ as an inspector. Over the past 21 years, I have had intermittent contact with him in the course of my employment on various building sites. Royce has a loud, booming voice which is unmistakable.

30. About 5 or 6 years ago, while I was at work in the Mt Gravatt office, I heard Helen on the phone to someone that I was 90% sure was Royce. I could identify him by his loud, booming voice.

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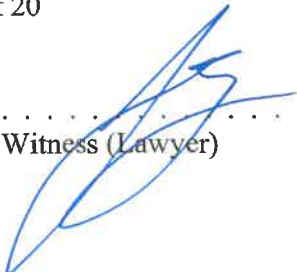
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31. When Helen was given the role of Director, Construction Strategy, WHSQ Compliance and Field Services within WHSQ, the triaging requirements changed. For example, the CFMEU had direct access to Helen Burgess. Helen would contact our operations manager and have inspectors sent out as a priority over all other work, bypassing the triple A centre and the triaging process. This often resulted in a lack of proper record keeping of incident reports, records and details. There was no triaging process employed when this occurred, to my knowledge.
32. I knew this as the operations manager would tell me that he had just had a call from Helen and that I was to attend a specific site immediately. Most of the time this happened, the issues that were raised with me by the CFMEU organisers would often not be of an urgent nature. Such issues included:
- a) general access and egress to sites;
 - b) general issues around electrical switch boards, such as a grommet missing from the underside of an electrical box;
 - c) unclean, or lack of sufficient, amenities;
 - d) hazardous chemical issues, such as safety data sheets or storage issues; and
 - e) traffic management.
33. There were, of course, times that I would be tasked to attend a building site, at the request of the CFMEU, where the issue was of a genuinely urgent nature.
34. It struck me that Helen Burgess was established as the point of contact for the CFMEU to ensure that they had priority over any other incidents, notifications or stakeholders.
35. Helen would usually send certain inspectors, such as John Azcune, to the CFMEU jobs along with a lot of newer and less experienced inspectors. In the first few years of Helen being in the Director's role, I would often be sent to CFMEU jobs. From the outset, I held concerns and reservations about the frequency and expected outcomes of the site visits. Over a period of time, it became obvious that our role was


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to assist the CFMEU on most occasions rather than enforce the legislation as it stood; that is without being biased.

36. Over a period of time (within a half a dozen site visits), I came to form the belief that not finding favourable outcomes for the CFMEU would result in punishment or disciplinary action by Helen and other senior management officers, which included Mark Dennett, Chris Mutton and Mark Houston. If I did not give the CFMEU a favourable outcome, they would complain to Helen and I would be subject to, what I considered to be, systematic bullying and intimidation, examples of which are:
- a) being reported to HR for not complying with the Manager's directions – that is, do as the Union wanted;
 - b) not issuing notices to builders, and to a lesser extent, sub-contractors, in circumstances where I believed it was not warranted to do so;
 - c) being chastised and dressed down by Helen or the operations managers in front of other staff;
 - d) them belittling me, saying things such as “you can't do your job properly”; and
 - e) looking for other potential avenues to discipline and discredit me as an inspector, such as inaccurate notebook records, being unprofessional on site and insufficient evidence gathering.
37. Prior to Helen taking over and the growing influence of the CFMEU, I had never been subjected to such tactics and behaviour in my role as an inspector. In my seventeen (17) years prior to Helen being appointed, I was never subjected to any disciplinary action to the best of my knowledge.

(h) Describe the Compliance Monitoring and Enforcement Policy and identify when it came in.

38. The Compliance Monitoring and Enforcement Policy (CMEP) was put in place around December 2018. I think this document was put in place at the request of the CFMEU in consultation with WHSQ and as a result of a best practice review.


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39. My understanding of the CMEP is that it was put in place to support the Priority Infringement Schedule (PIS) which I discuss further below.
40. Attached marked DC-1 is a copy of the Compliance Monitoring and Enforcement Policy dated December 2018.

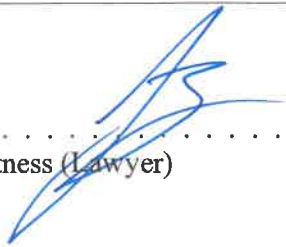
(i) Describe any impact of the Policy on your role as an inspector and your discretion as to whether to issue notices to PCBUs or other stakeholders.

41. In compliance with PIS, an inspector had no discretion. You were told that you must write an infringement notice, if you came across any of the offences outlined in PIS. As I stated earlier in my statement, prior to this an inspector had discretion. The CMEP and PIS removed such discretion.
42. Attached marked DC-2 is a copy of the PIS dated 24 August 2018.
43. I always questioned PIS and said to OIR management “I don’t believe your policy is legal, because the Act says that an inspector may write a notice, and an infringement notice is a notice”. But they were virtually forcing us to write the notices if we came across any of the things mentioned in the PIS. If you went to a job and you didn’t write an infringement under that policy, you were dragged in and told “You have not been following the policy”, you know, “Naughty naughty, you can be disciplined.”
44. If it didn’t suit certain parties, such as the CFMEU, then there would be a phone call made and a complaint made about the inspector, to the effect that we were useless and not doing our job. In my opinion, you can’t always just write a notice if you haven’t got the evidence or formed a reasonable belief that an offence had, or was, occurring.
45. CMEP was designed to force the inspectors, I believe, to write more notices. If you didn’t follow the CMEP then that was the avenue for disciplinary action. I cannot recall being formally disciplined for failing to write an infringement for an offence listed on the PIS, I would just be spoken to by management.
46. Complaints from the CFMEU would be made to either Royce Kupsch, and then to Helen Burgess. Those complaints would then be forward to an Operational Manager (AO8) and we would be spoken to about it and told “You’re not following policy,

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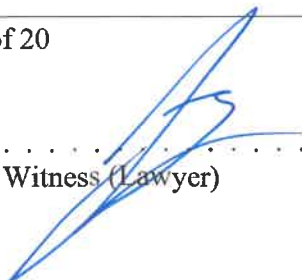
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and the procedure is that you can be disciplined for refusing a direction or not following policy.” I was always arguing with them because I’m not following a policy that’s not legal. “Well, that’s not for you to question” was the response from management.

47. I believe this was used as leverage by the CFMEU against the builders and to punish them by giving them more fines and more notices.
48. I can’t speak for other inspectors, but the general feeling I got doing my role, is that you were expected to write as many notices as you could and follow the CMEP.
49. Part of the difficulty in investigating, in order to determine whether a notice should be issued, was the pressure from the CFMEU whilst we were on site. We would be required to follow their organisers around the site as they showed us alleged breaches. They would often try to manipulate the direction and outcome of the site visits, by questioning any decision we made and arguing with us, which frequently involved raised voices and aggressive behaviour, such as standing in our personal space, swearing and occasionally personally abusing us.
50. The point would often arise where we simply had to take back control of the site visit to ensure that we were doing our job properly. This would result in the CFMEU either calling Royce or Helen to complain about us and us receiving a phone call from Helen or one of the WHSQ operations managers, such as Chris Mutton or Mark Houston. Usually, they would tell us to do our job and do what the CFMEU wanted. Initially, I would argue back with them and refuse to bow down to the Union’s illegitimate demands, although as time progressed, I came to the dim view that my continued resistance was, in fact, futile. That said, I steadfastly refused to act unlawfully.
51. This was different on sites that did not involve the CFMEU. We would attend a site, do our investigation, carry out a site walk, write up and issue a notice if warranted. If the builder or sub-contractor didn’t like it, they would put in an appeal. There was no other scrutiny. There was no other information from anybody else. I would not have pressure from management to write up a notice on other jobs, this generally only occurred on CFMEU sites. It may have happened with ETU organisers and Plumbers Union organisers but that was few and far between.


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52. For example, I would never see anyone from the AWU. They would not be present on site pressuring us to write a notice and then reporting this back to management if you did not write one.

(j) Describe the incident at the West Village construction site at West End, where you and inspector Simon McLennan attended in response to an issue involving CFMEU official Dean Mattas. Include the phone call you received from Operations Manager Chris Mutton and what was said on that call.

53. In 2021, McLennan and I received a request for assistance from Dean Mattas, the CFMEU organiser. The request came via our operations manager at the time; I cannot recall if it was Mr Mutton or Mr Houston.

54. We were told by the operations manager to facilitate a right of entry for the CFMEU at the West Village Construction site at West End, which we were told was an urgent job.

55. We drove to the site and met up with Mattas and three or four of the site managers from Hutchinson Builders; I cannot recall their names. We were taken up to the site office meeting room where I convened the meeting. There was a dispute between the builder and Mattas over the section of the legislation that Mattas was trying to rely upon for entry. He was trying to come on to the site under s 81(3) of the WHS Act. The builder was disputing that right of entry as Mattas was an Entry Permit Holder.

56. We discussed the issues raised and I informed Mattas, as he was an entry permit holder, he had to come in under s 117 of the WHS Act; that would require him to sign in before entry. I explained that he would then have more rights to come on and inspect the site. Mattas said “no, I am coming on under s 81(3) of the WHS Act”, and an argument then ensued for the next 30 to 40 minutes, where I explained that under s 81(3) of the WHS Act he would receive no assistance from us and he could not, under that provision, enact his rights as an entry permit holder.

57. After that period of discussion, and as a result of safety issues being raised by Mattas, I could not just walk away, and so I decided to carry out a site inspection in accordance with my obligation as an inspector. The Hutchinson employees said they would come

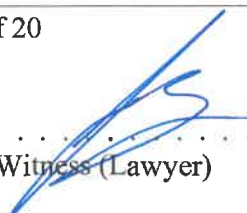

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along. Mattas, of his own volition and without invitation from me or Hutchinson management followed us around.

58. We inspected areas of the site and, whilst doing so, Mattas attempted to manipulate the site inspection. I subsequently informed the builder not to listen to him as he had very limited rights due to his entry under s 81(3) of the WHS Act. As we continued the inspection, tensions arose between Mattas and me. I concluded my inspection and left the site without issuing any notices.
59. I came to learn the following day, that another inspector from our office was sent back to the site and assisted Mattas in getting what he wanted. I learnt this from an inspector named McLennan, as he had returned to the site to assist the other inspector. At that stage, McLennan was a relatively new inspector.
60. The phone call referred to above occurred sometime later (12 May 2021) on a different site visit to that location. On that day, Frank D'Allura and I had been tasked by Jason Plath, Operations Manager to site in response to another request for assistance by Dean Mattas.
61. The phone call that we received from Chris Mutton occurred on a visit to that site but a later date.
62. On Wednesday, May 12, I was contacted by Jason Plath to tell me to go to the Hutchinson Builders site at West Village, Boundary Street West End. Jason stated that there is a union request for assistance from Dean Mattas, CFMEU. I was told by Plath that Mattas was entering under s 68(2)(g) of the WHS Act.
63. I was somewhat confused as Mattas is an entry permit holder for the CFMEU but did not enter under s 117 of the WHS Act.
64. The alleged issues raised were, access and egress, water in walkways, delineation between plant and people, and falling objects.
65. I was to meet with Frank D'Allura and go to site. We met at the front of the site and entered at approximately 9:00 am.


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66. Upon entering the site, I observed Dean Mattas already on site. He was alone and looking around areas on the ground level. Inspector D'Allura and I made our way to the site office to sign in and fill out the Covid-19 questions, as was a requirement of site entry.
67. Once in the office, we spoke with site safety advisor Sam Mitchell, site manager Matt Hannah and another site manager, Sebastian. A few minutes later, Mattas entered the office. We started by asking the Hutchinson staff if any safety issues had been brought to their attention by any of the HSRs on site or anyone on the safety committee. Sam Mitchell, Matt Hannah and Sebastian all said no - they had not been approached by anyone regarding unresolved safety issues. In fact, they were confused as to why Mattas was on site as no one had raised any safety issues with them.
68. We then asked Mattas what his issues were, and he stated access and egress, water in walkways, delineation between plant and people, and falling objects. He also added a few more such as Covid-19 controls, lack of spacing in builders hoist, and lack of safety back up on precast concrete panels when lifted by crane.
69. I first asked Mattas if he signed in and filled out the Covid -19 declaration and he said no. I asked him why not, and he said that he doesn't need to sign on or do the Covid-19 declaration. I told him it was a requirement put into place by the PC and he said I will not sign in.
70. We then started to ask questions about why he was on site and what issues he needed us to look at. I also told Mattas and Hutchinson Builders that, as Mattas has entered under s 68(2)(g) of the WHS Act, he was not entitled to the same rights as entering under his entry permit. Mattas seemed agitated, when I said this and said words to the effect of "here we go again."
71. Mattas continued to be argumentative and difficult to deal with. At one point, I told Mattas that if he continued to argue and cause us stress then we would leave site. He said words to the effect of "go ahead, I'll just make a phone call and get other inspectors here."
72. During our discussions in the site office, the site manager explained what occurred at the point when Mattas arrived on site. Matt Hannah met Mattas at the front of the site


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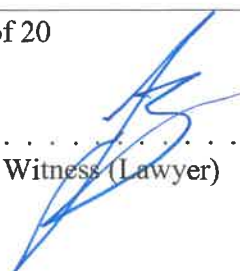
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on Mollison Street where Mattas told him that he was here to assist the HSR under s 68(2)(g) of the WHS Act and would be entering site.

73. Hannah was not sure what the requirements of this section were, so he phoned the Hutchinson Builders head office and spoke to Ben Young. Ben told Hannah that he was not to let Mattas onto site. Hannah relayed this onto Mattas; Mattas ignored his direction and entered site.
74. Hannah told him that he could not enter and Mattas just ignored him. Mattas continued to walk around site. Hannah asked him to go to the site office to sign in and fill out the Covid-19 declaration and Mattas refused. Mattas continued to walk around the site unescorted.
75. I believe that the site safety advisor, Sam Mitchell also spoke with Mattas and told him he cannot just walk around site and that he needs to sign in, but Mattas refused to follow his directions.
76. I then asked Mattas if he had signed in and he said no. I asked why not, and he said that he doesn't have to.
77. I told him that he must follow the requirements for safety set out by the PC and he didn't seem to care.
78. I then asked Mattas if he walked around site unescorted looking at work areas, he did not answer me. I asked him again and he said, "I'm not answering your question."
79. I informed him that it was an offence under the Act not to answer my questions and he again stated that he did not care and would not answer my question.
80. It was at about this point, Chris Mutton, Operations Manager for Brisbane South Gold Coast phoned me. He wanted to know what was going on as he was getting phone calls about how we were conducting our site visit. He did not tell me who had made the calls but told me that I must lead the site visit and address what Mattas wanted.
81. I informed Mutton that I had concerns, as I believed that Mattas was acting unlawfully. I explained to Mutton that Mattas entered the site without permission, walked around site unescorted, refused to sign in, and refused to answer a question I put to him.

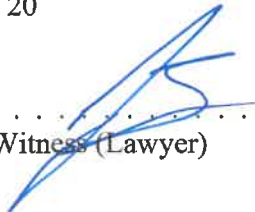

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82. Mutton seemed to dismiss what I was saying and said words to the effect of “just address whatever safety issues Mattas has.”
83. I told Mutton that I want something done about Mattas and he again was dismissive.
84. We then gathered the safety committee and decided to carry out a site walk to address the issues raised by Mattas. We went to level 15 and carried out an inspection. We noticed that Mattas was not with us, and we were informed that he was walking around other levels doing an inspection.
85. Inspector D’Allura contacted his Operations Manager, Mark Houston to get someone to contact Mattas and tell him to stay with us. I phoned my manager, Chris Mutton and did the same.
86. During my conversation with Mutton, I told him that along with other issues I believed to be unlawful, now Mattas had walked off by himself carrying out inspections in other areas.
87. Again, Mutton told me to just address the safety issues. I stated that I was not comfortable with the manner in which Mattas was acting and again Mutton told me to just focus on the safety issues raised by Mattas.
88. I told Mutton that this was not acceptable and that I would be doing something about it.
89. We continued with our inspection and spent a significant amount of time on level 15 where we identified safety issues with the jump form.
90. We then broke for lunch and resumed back in the site office. Mattas lost interest with the other safety issues he initially raised and started to focus on spacing of workers in the hoist for covid-19 controls and fitting a safety chain to precast concrete panels. We spent the rest of the afternoon discussing these issues.
91. I left site at approximately 1600 hrs. Mattas left about 15 minutes before me. Inspector D’Allura stayed on site to write some notices.


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(k) Describe the CFMEU officials' practice of recording videos of inspectors and publishing them to Facebook. If you observed that these videos impacted on inspectors, describe the impact.

92. I have very little knowledge of this practice. I understand that this occurred predominantly to inspectors from our Brendale office. Those inspectors that were predominantly targeted by his practice were Frank D'Allura, James Ross and John Barber.
93. I am aware that the CFMEU would post videos of these inspectors on the internet carrying out their duties. Someone, presumably from the CFMEU, would alter images and play background music tracks to make the inspectors look incompetent.
94. Through conversations I had with those three targeted inspectors, I was made aware of the significant anxiety and stress this caused them. James and, to a lesser degree, Frank seemed to be affected.

(l) Explain how you became aware of the existence of a Memorandum of Understanding between the Queensland Police Service and the Office of Industrial Relations. Explain the impact of that Memorandum on your role as an inspector, including the impact on Right of Entry disputes with the Union.

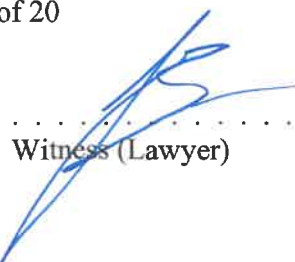
95. I first become aware of the Memorandum of Understanding (MOU) when it come out in the media in December 2025, and it was a surprise to me.
96. When an entry dispute could not be resolved between the CFMEU and the Principal Contractors, the police would be called by the Principal Contractors to report trespassing or request police assistance. The police wouldn't turn up and we could not understand why. This probably happened 3-4 times when I was on site.
97. We started hearing that Helen Burgess had contacted the police and told them not to turn up because the entry permit holders were not there trespassing, they were doing it legally.
98. We couldn't figure out how she had a phone number, what command, what area and who to ring. We couldn't figure out how she had all that information and then we didn't know if it was true. We thought how would she have that power.

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Witness (Lawyer)

99. It was only until the newspaper article came out, in or around, early December 2025 that I knew that we had an MOU with QPS and Helen Burgess was the contact person and then two and two came together and we realised that's how it's happening.
100. I understand that after the police were called by the builder, Helen would receive contact from the QPS regarding the details of the situation, and she would tell them not to attend as the CFMEU access was permitted under s 117 of the WHS Act.
101. I recall being told by police officers on certain sites that QPS do not attend anymore because they got sued on one of the big sites. I was told by a few police officers that they're reluctant to attend because QPS was sued by the CFMEU and lost.

(m) Explain how you became aware of a list within WHSQ identifying certain inspectors whom management wanted to pressure out of the department.

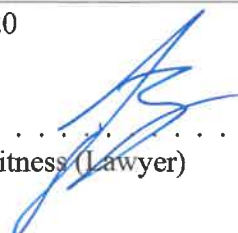
102. I became aware of a 'hit list' from an inspector named Paul Kitchener who worked out of the Mt Gravatt office with me. I believe the 'hit list' came into existence through the CFMEU using Helen Burgess; they wanted to get rid of inspectors that were a thorn in their side.
103. What I mean by the term 'thorn in their side' is that I believe we had been identified because we would regularly and often refuse to partake in behaviour on construction sites that we believe wasn't legal or compliant with their entry permits in the legislation. So, we would push back on that with the CFMEU organiser on site, and the management, such as Helen Burgess who was the conduit between the CFMEU and WHSQ.

n) Explain what you have been told by Mr Paul Kitchener regarding the hit list.

104. I recall having a conversation with Inspector, Paul Kitchener, he said, "Do you know that you are on a list, a hit list, to get rid of you?" and I said, "No, I had no idea, who else is on the list?" Paul said, "there's you, Noel Hayes, Anthony Watego, Geoffrey Collis, Gary Matheson;



 David Cappelletti



 Witness (Lawyer)

105. Paul told me that he made a formal complaint about the 'hit list' to Marc Dennett, Executive Director, WHSQ. I cannot recall if this was a complaint in writing or over the phone. The complaint was never actioned and was ignored, which made Paul quite disillusioned with the management of WHSQ.
106. I believe that Paul resigned because of these issues and moved back to Tasmania. Paul would be the holder of the key for information about the 'hit list', as he is the one that knew more about the list and Chris Mutton, who was allegedly given the task to make life difficult for us five, to the point where we resigned.
107. Anthony and I are the only two remaining inspectors - all the others on the 'hit list' retired early or left because of all the problems. I feel that everything we did was scrutinised and criticised. We had been set up to fail. I was a thorn in their side. It had an impact on my mental health and wellbeing.
108. Other than the oral conversation I had with Paul as stated above, I have no further knowledge about the 'hit list' or how it come into existence.

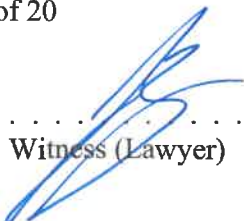
(o) Describe the degree to which you were supported by managers in relation to negative interactions with the CFMEU.

109. I wasn't. That said, I never approached our management, the Human Resource Department or ethical standards as experience had taught me that they were all against us.

(p) Describe significant interactions with the human resources function at WHSQ and the impact that those interactions had on you personally.

110. In my first decade and half with WHSQ, I had no involvement with the Human Resources section. Following the appointment of Helen Burgess as the Director at WHSQ, I found myself suddenly having meetings with HR and the Operations Manager.
111. I can recall 3-4 such meetings where I was spoken to regarding work related issues; it was akin to subtle intimidation. I was being micro-managed with every decision and/or comment that I had made was scrutinised and used against me. These meetings caused


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Witness (Lawyer)

me significant levels of stress and anxiety and led to me questioning all my decisions and my ability as an inspector.

112. Through the course of the period in which Helen reigned, I developed significant anxiety and stress related issues which ultimately resulted in me seeking medical assistance from my general practitioner.

(q) Describe the phone call that you received from a project manager, managing a project near the Princess Alexandra Hospital in Woolloongabba on 25 June 2021. Explain the subsequent complaint that Dean Mattas lodged about that call and the disciplinary process that flowed from Mr Mattas' complaint.

113. On, or about, 25 June 2021, I received a phone call from a project manager at a building site near the PA Hospital. At this time, I was on recreational leave and at home. The call came through to my work phone, which was provided to me for work use and limited private use. This is the only phone that I had at the time, and I would receive personal calls on it.

114. I answered the call and spoke to the Project Manager. I cannot recall his name but had met him a week or two prior where I had carried out a site visit in the company of Dean Mattas. At that time, I had told the project manager that Mr Mattas could not enter unless he complied with all of his entry requirements.

115. I told him that I was on leave but asked him what he needed. He told me that the CFMEU was attempting to get on site and wasn't complying with the legalities of the entry permit and legislation. He further told me that it was Dean Mattas and what he was doing, or not doing, and asked me for my advice. I advised him that if there was a problem I could not help him and advised him to contact ABCC or WHSQ as I was on leave. It was then that I heard Dean Mattas in the background yelling and screaming at me; I cannot recall what he said. Prior to this point, I was unaware I was on loud-speaker. We ended our phone call, and at that point, I thought no further of the matter.

116. When I returned from leave, I was contacted by my Operations Manager, Mark Houston, who told me that Dean Mattas had made a formal complaint about my alleged behaviour on that phone call. A day or two later Houston phoned me and asked me a series of questions regarding the incident. I answered those.

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117. On, or about, 9 September 2021, I received a letter from Marc Dennett, Executive Director which I understood to be confirmation that a formal investigation/disciplinary process had been commenced against me.
118. I understood that I was required to provide a defence to the allegations. Accordingly, I prepared my defence by referencing relevant legislation, WHSQ policies, procedures and codes of conduct. I prepared a response in writing and sent that to Dennett.
119. Some weeks later, I received a response saying that I had breached protocols, and a decision was made that I would be punished by formally noting on my personnel file that I had breached government and department protocols and procedures. I wanted to appeal that decision but was so demoralised and worn out by that stage, that I gave up.
120. The contents of this statement are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.
121. I understand that a person who makes a false declaration in a statement commits an offence.
122. I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

DECLARED/AFFIRMED at Brisbane on 3 March 2026


DAVID CAPPELLETTI



 Signature of declarant

BEFORE ME:

JOEL SLEEP
 employed by Crown Law,
 50 Ann Street Brisbane


a lawyer
 Signature of witness



 David Cappelletti



 Witness (Lawyer)

**COMMISSION OF INQUIRY INTO THE CFMEU AND MISCONDUCT IN THE
CONSTRUCTION INDUSTRY**

ANNEXURE INDEX LIST

Annexure No.	Reference	Page No.
DC-1	Compliance Monitoring and Enforcement Policy dated December 2018	23-40
DC-2	Priority Infringement Schedule dated 24 August 2018	42-65


COMMISSION OF INQUIRY INTO THE CFMEU AND MISCONDUCT IN THE
CONSTRUCTION INDUSTRY

ANNEXURE SHEET

This is the document referred to as DC-1 in the statement of David Cappelletti
~~declared~~/affirmed in Brisbane on 3 March 2026



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David Cappelletti



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Witness (Lawyer)

Compliance Monitoring and Enforcement Policy

**Workplace Health and Safety Queensland
Electrical Safety Office Queensland**

December 2018

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1 Introduction

1.1 Policy scope

This policy covers the administration and enforcement of the following legislation:

- *Work Health and Safety Act 2011* (WHS Act),
- *Work Health and Safety Regulation 2011* (WHS Regulation),
- *Electrical Safety Act 2002* (ES Act)
- *Electrical Safety Regulation 2013* (ES Regulation).
- *Safety in Recreational Water Activities Act 2011* (SRWA Act)
- *Safety in Recreational Water Activities Regulation 2011* (SRWA Regulation).

In the text of this policy these regulatory instruments are referred to as “the legislation”.

Under the legislation, the Regulator is appointed by the Governor in Council. The Regulator may delegate to an Inspector, appropriately qualified public service employee or person prescribed under a regulation, a function or power under the legislation. Inspectors are subject to the Regulator’s direction (s162 WHS Act and s137B ES Act). This Policy provides direction by the Regulator in the exercise of the inspector’s compliance powers.

In general terms, the legislation is administered by Workplace Health and Safety Queensland and the Electrical Safety Office who are both referenced as the “regulator”. The monitoring and enforcement of compliance with the legislation occurs by the inspectorate. The following core concepts from the legislation are reflected in the regulator’s approach and factored into enforcement decisions:

- workers should be protected from exposure to the risks of illness or injury by duty holders in the course of their business or undertaking
- other people should not have their health and safety put at risk as a result of work being carried out
- duty holders in control of the work that creates the risk are in the best position to eliminate or minimise exposure to those risks
- duty holders, including persons conducting a business or undertaking PCBU’s, officers, workers and others need to be proactive in ensuring health and safety in the workplace
- primary duty holders must communicate, and collaborate with workers and representatives, to manage work health and safety risks
- where there are multiple duty holders then they need to work together to exchange ideas and information about reducing or eliminating risks in their workplace.

1.2 The regulator

The regulator is responsible for securing compliance through effective and appropriate monitoring and enforcement.

The regulator uses a range of tools to promote and secure compliance with the legislation: to ensure duty holders eliminate or minimise exposure to the risk of illness and injury; and, ensure duty holders who contravene health and safety requirements are held to account.

Inspectors authorised under the legislation are key agents in this regulatory approach, using the powers conferred upon them to provide information and advice about compliance, and to monitor and enforce compliance which includes directing compliance, imposing a sanction, or both.

The regulator takes the following approach in fulfilling its regulatory functions:

- targeting regulatory activity through evidence based research and data analysis of risk of serious harm and/or fatalities to focus on high priority areas for enforcement.
- adopting a high interaction approach involving key agencies, stakeholders and workplaces.
- practising highly visible, credible, proportionate, transparent and consistent enforcement.
- focusing on unmanaged risk and compliance or duty based contraventions, with duty holders being held accountable for contraventions of the legislation
- prioritising sustainable compliance through the provision of information and advice that assists duty holders to implement higher order controls to design and adopt WHS management solutions.
- providing information, resources, education and training.

This approach is summarised below.

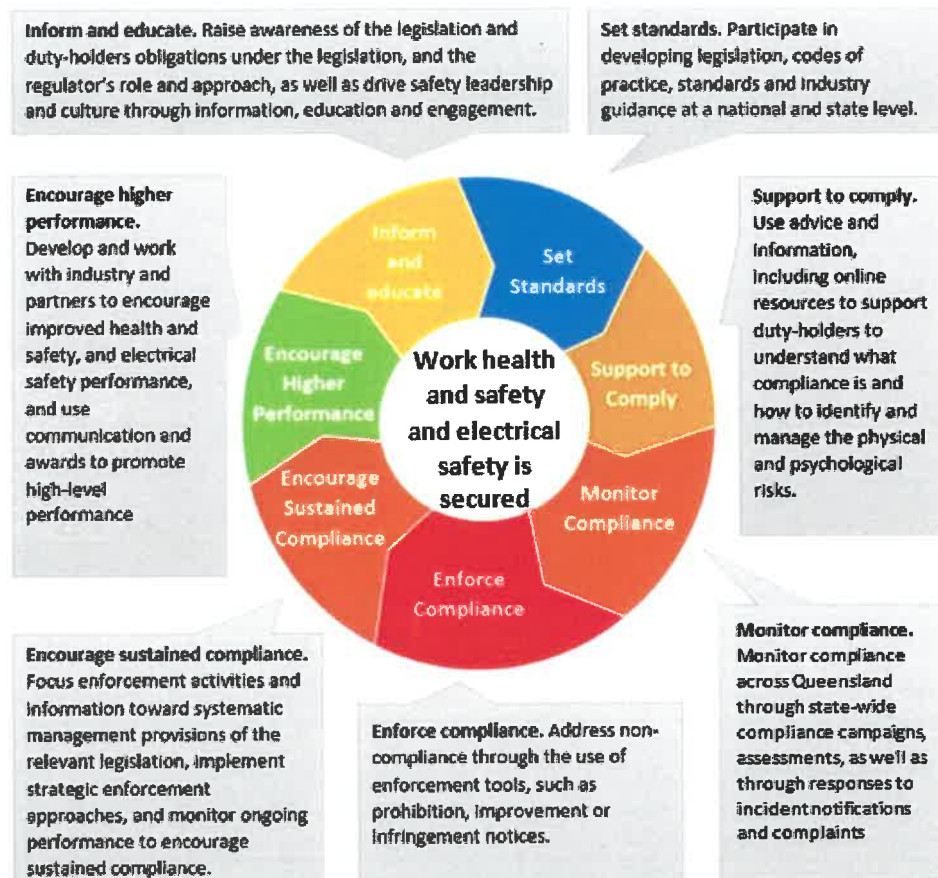


Figure 1: The regulatory approach

1.3 Purpose

The Compliance Monitoring and Enforcement Policy (this policy) explains how the regulator uses compliance monitoring and enforcement to ensure duty holders are meeting their legislative duties, and to create credible deterrents for contravening the legislation.

The Compliance and Enforcement Framework, is aligned with Strategic Lever 4 of the Five Year Strategic Plan for WHS in Queensland: Regulating effectively. The purpose of the policy is to inform duty holders of the regulator's approach to compliance monitoring and

enforcement and guide inspectors and their managers in their decision-making and use of enforcement measures.

Duty holders must comply with their obligations under the legislation to ensure workers and others are not exposed to unacceptable risks that may result in death, injury or illness.

The purpose of *monitoring compliance* and, when required, *enforcing compliance*, is to ensure duty holders comply with their obligations. This may require directing remedial or compliance action. The threat of being caught and the deterrent effect of a strong regulator will provide a better environment where the risk of exposure to injury and illness is minimised.

Enforcement measures available to the inspectorate include prohibition notices, improvement notices, electrical safety protection notices, unsafe equipment notices and infringement notices (on the spot fines).

Whether there is a single issue, or multiple issues that result in a number of enforcement decisions, inspectors consider the overall enforcement approach, including whether it:

- deals with the most serious risks in order of priority
- takes account of the magnitude of the breaches and provides a proportionate response to the level of risk
- adequately addresses systemic problems with a focus on common causation factors
- secures sustained compliance, including system wide changes where multiple contraventions are apparent
- influences and deters other duty holders in the same industry
- increases the likelihood of sustained compliance.

2 Principles of compliance monitoring and enforcement

Compliance monitoring and enforcement is designed to ensure the following aims:

- obvious risks to the physical and psychological health and safety of workers and others are managed and any contraventions of the legislative requirements are quickly addressed;
- work is conducted in a way that is electrically safe;
- PCBUs are fulfilling their duties under the legislation to ensure the health and safety of workers and others; and
- officers¹ of a PCBU are exercising due diligence to ensure the PCBU is complying with any relevant duties.

With a focus on contraventions identified as a high priority for enforcement, the regulator will:

- monitor compliance through observation, conversation and document examination at the workplace; and
- take action to enforce compliance where there are unmanaged risks and contraventions with high levels of culpability leaving workers and others exposed to the likelihood of serious injury or illness.

The regulator is guided by seven nationally agreed principles when undertaking its compliance monitoring and enforcement role, exercising its regulatory responsibility and administering the legislation. The principles² are:

<i>Consistency</i>	The regulator will endeavour to ensure that similar circumstances lead to similar approaches being taken, providing greater protection and certainty in workplace and industry.
<i>Constructiveness</i>	The regulator will provide support, advice and guidance to assist compliance with the legislation and build capability.
<i>Transparency</i>	The regulator will demonstrate impartiality, balance and integrity.
<i>Accountability</i>	The regulator is willing to explain its decisions and make available avenues of complaint or appeal.
<i>Proportionality</i>	Compliance and enforcement responses are proportionate to the seriousness of the conduct.
<i>Responsiveness</i>	Compliance and enforcement measures are responsive to the particular circumstances of the duty holder or workplace.
<i>Targeted</i>	Activities are focussed on the areas of assessed highest risk or the regulator's strategic enforcement priorities.

¹ Officers are persons who make, or participate in making decisions that affect the whole, or substantial part, of the business or undertaking of the State, Commonwealth or other State for the purpose of the legislation.

² The principles outlined are in accordance with the [National Compliance and Enforcement Policy](#).

3 Monitoring compliance

The regulator monitors compliance with the legislation, maintains a credible threat of detecting non-compliance and constantly improves its capacity to detect and respond to non-compliance. The primary focus is on ensuring duty holders comply with the legislation so that workers and others are not exposed to the risk of injury and illness. The regulator prioritises compliance monitoring activities to focus on the industries and mechanisms which pose the greatest risk of harm to the health and safety and electrical safety of workers and others.

Inspectors undertake workplace visits using observation, discussion and review of documents to make an assessment of the level of risk and extent of compliance. These visits may be initiated by state-wide compliance campaigns (e.g. safety blitzes), workplace assessments (e.g. audits and inspections) or in response to incident notifications or complaints. Inspectors will not give prior notice of entry to a workplace except in specific circumstances (e.g. remote sites where it is necessary to ensure someone is on site or where it is necessary to ensure a particular person is available) and where advance notice will not compromise the intention of the visit.

3.1 Status of standards

In addition to complying with the legislation, duty holders in Queensland must follow the safety measures in Approved Codes of Practice (ACoP) and electrical safety duty holders must also follow the safety measures in Ministerial Notices. Duty holders can follow another method outlined in a technical or an industry standard to manage hazards and risks, as long as it provides an equivalent or higher standard of work health and safety to the standard required in the ACoP or Ministerial Notice.

When addressing matters where a risk of harm is present, inspectors will assess the degree of uncontrolled risk as a fundamental premise of any enforcement decision, and will consider whether the risk has been eliminated or minimised according to the legislation or relevant standard so far as is reasonably practicable.³

3.2 Quality of risk management controls

Inspectors will determine the quality of controls implemented to eliminate or manage the risk so far as reasonably practicable. An assessment is made to determine the level and suitability of control measures being applied. That assessment provides a residual risk rating with five levels of control. These five levels are outlined below:

1. Controls are in place. The controls are currently as prescribed by the legislation, are working and are effective, i.e. the hazard or risk has been eliminated or residual risk is minimised.
2. Controls are in place, so far as is reasonably practicable. There is some remaining risk because better controls do not appear to be available or a better alternative would require investment grossly disproportionate to the risk. Ongoing monitoring of this risk is needed.
3. Controls are low level with no evidence of investigation into higher order controls or assessment of the feasibility of implementing higher order controls. Low level control measures may still be considered a contravention if higher level control measures are reasonably practicable.

³ Inspectors may refer to standards to determine what is reasonably practicable (see glossary).

4. Controls currently in place are inadequate. There are known problems or limitations with existing controls and further action is needed to eliminate or minimise exposure to the risk.
5. The risk is essentially uncontrolled. Controls either have not been implemented, or they are grossly inadequate. Urgent action is required.

A residual risk rating of three or higher would indicate a contravention has occurred and enforcement action is required.

3.3 Management Systems Approach

Duty holders seeking to manage exposure to the risk of injury or illness must design and implement a sustainable systematic management approach focussing on high order controls. Higher order systematic solutions and controls include:

- PCBUs consulting with workers;
- PCBUs consulting, coordinating and cooperating with other duty holders;
- Officers of PCBUs exercising due diligence (WHS Act s27(5); ES Act 38A) and ensuring the PCBU is complying with any relevant duties;
- WHS management systems that collect and maintain registers and records and reporting systems as part of ensuring compliance;
- Provision of adequate welfare facilities and a safe workplace;
- Good work design that optimises work health and safety, human performance, job satisfaction, and business success (see Principles of Good Work Design Handbook published by Safe Work Australia).

While a contravention of these, or similar, provisions may not result in an immediate risk to health and safety, it does indicate that there is failure in the comprehensive health and safety management in the workplace and consequently higher potential for harm to occur.

Where an inspector identifies a suspected contravention of broader, or higher level duties, the inspector may utilise enforcement options to secure compliance and deter the adoption of lower level control measures.

4 Directed compliance

The regulator has a number of enforcement measures available to direct compliance or sanction non-compliance. These measures work as an effective incentive for compliant behaviour and as a deterrent to non-compliance.

Enforcement responses are specific and proportionate to the situation they address, taking into account:

- the level of risk
- the level of actual or potential harm
- the availability, clarity and status of standards or guidance
- any relevant history of non-compliance
- whether the contravention has been identified as a priority area for enforcement by the regulator.

During workplace visits inspectors may identify contraventions that the duty holder can rectify in the presence of the inspector to achieve immediate compliance. Immediate rectification of contraventions will be recorded by the Inspector. Contraventions that cannot be immediately rectified will result in a notice to remedy.

Identification of lower level breaches may indicate failures in the management system and higher order controls. Where individual or collective contraventions are identified the inspector is empowered to issue notices for contravention of broader, or higher order duties. For example, after issuing a prohibition notice to stop the unsafe operation of a fork-lift, an improvement notice may be issued for contravening s19(3)(F) – provision of information, training, instruction or supervision. The PCBU should have observed, stopped and rectified the prohibited activity and ensured appropriate training and supervision was undertaken to ensure the safe operation of the fork-lift.

Consideration will be given to any relevant history of non-compliance as a repeat of similar contraventions could be indicative of a systematic management failure. In these circumstances the inspector is empowered to take action for contravention of the higher order duties under the legislation, including the PCBU's primary duties and an officers duty to exercise due diligence.

4.1 Enforcement measures

When the inspector identifies a contravention, they are required to use their powers under the legislation to address the contravention. Inspectors are empowered to direct compliance by various means including the issue of:

- improvement notices
- prohibition notices – for work activities that give rise to a serious risk to health and safety of a person, an inspector will prohibit the activity until risks are appropriately managed
- electrical safety protection notices – for circumstances causing, or likely to cause, an immediate electrical risk to persons or property at a place
- non disturbance notices - to facilitate the exercise of an inspector's compliance powers
- unsafe equipment notices - for defective or hazardous electrical equipment that is likely to cause a serious electrical incident.

The first priority for directed compliance is to address any circumstances that involve:

- a serious risk⁴ to health and safety arising from immediate or imminent exposure to a hazard by issuing a prohibition notice; or
- an immediate electrical risk by issuing an electrical safety protection notice (ESPN). The electrical supply will also be isolated in these circumstances.

In each case the inspector will give an oral direction and issue a written notice. See Flowchart 1: Enforcement overview (at end of this policy) for a high level outline of the regulator's approach to enforcement

4.1.1 Prohibition Notice (WHS Act s195-197)

Prohibition notices will be issued by an inspector to stop an activity that is occurring or may occur at a workplace if they reasonably believe the activity involves, or would involve, a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard. For example: unguarded machinery or working at heights without any control measures.

Where the direction has been given orally, the direction must be confirmed by a written prohibition notice and given to the person that has control over the activity as soon as reasonably practicable. The notice will stipulate the matter that gives rise to the risk (or is likely to give rise to the risk) and, the provision in the legislation that is being, or is likely to be

⁴ A serious risk to health or safety is not defined in the WHS Act. In general terms a serious risk can be considered a significant risk that is neither trivial nor slight, which has a real chance of materialising (Fallas v Mourlas [2006] NSWCA 32).

contravened. The prohibition notice may also contain recommendations such as measures that could be taken to remedy the contravention.

Improvement notices may also be issued at the same time to address any underlying failure, including systematic management provisions under the relevant legislation that led to the serious risk arising.

4.1.2 Electrical safety protection notice (ES Act s147(8))

An electrical safety protection notice (ESPN) will be issued in all cases where an inspector reasonably believes that circumstances are causing, or likely to cause, an immediate electrical risk to persons or property.

This will include action to disconnect the supply of electricity to the area that is not considered electrically safe. Inspectors will also ensure an exclusion zone is in place around the area until the electricity supply can be disconnected.

Where the direction has been given orally, the direction must be confirmed by a written ESPN and given to the person as soon as reasonably practicable.

Improvement notices may also be issued at the same time to address any underlying failure to comply with systematic management provisions under the relevant legislation that led to the serious risk arising.

4.1.3 Improvement Notice (WHS Act s191-192; ES Act s146-146A)

An improvement notice is issued:

- in order to remedy a contravention,
- to prevent a likely contravention from occurring,
- to remedy the things or operations causing the contravention or likely contravention (causal factors) within a specified timeframe.

Inspectors will issue an improvement notice in all cases where they reasonably believe that a person is contravening a provision of the legislation; or has contravened a provision and believes it is likely that it will continue or be repeated. The exception to this is where immediate rectification of a contravention occurs while the inspector is at the workplace and this must be recorded by the inspector. Where the contravention is evidence of a systematic management failure the inspector will issue an Improvement Notice that addresses the systematic management failure.

The purpose of an improvement notice is to focus the duty holder on the tasks to be carried out in order to remedy a contravention or any causal factors to achieve compliance with their duties under the legislation. For example, an inspector may issue a notice to remedy a contravention of risk management or hazard control provisions. The inspector may also issue a notice to address broader, or higher level duties under the legislation.

The notice stipulates the contravention, the provision that is being contravened (or is likely to be contravened), and a time frame (a compliance period) by which the duty holder must comply with the notice. The notice may also contain directions for measures to be taken to remedy the contravention or prevent a recurrence, or likely recurrence of the contravention.

An improvement notice may also be issued even when a prohibition notice or electrical safety protection notice has been issued. Unless the contravention is otherwise addressed by a prohibition notice or electrical safety protection notice, an improvement notice will be issued where the contravention cannot be immediately remedied while the inspector is at the workplace or onsite.

4.2 Other directions

4.2.1 Unsafe equipment notice (ES Act s148)

An unsafe equipment notice will be issued if an inspector reasonably believes that electrical equipment is so defective or hazardous that it is likely to cause a serious electrical incident. The purpose of the unsafe equipment notice is to require the owner to make the electrical equipment harmless or incapable of operation.

The owner may choose to have the item made electrically safe or destroyed. An unsafe equipment tag must be attached securely to the equipment.

4.2.2 Non-Disturbance Notice (WHS Act s198-199; ES Act s149)

An inspector may issue a non-disturbance notice if he/she reasonably believes it is necessary to do so to facilitate the exercise of their powers. For instance, a non-disturbance notice may be issued to preserve the site at which a notifiable event has occurred, or to stop any disturbance of a particular site (including plant, substance, structure or thing associated with the site), for a specified time that is reasonable in the circumstances (of no more than 7 days). The non-disturbance notice must state the period of non-disturbance; the obligations of the person to whom the notice is issued; the measures to be taken to preserve the site; and the penalty for contravening the notice.

A non-disturbance notice does not prevent any action, to assist an injured person, remove a deceased person, make the site safe to prevent further injury, that is associated with a police investigation, or for which an inspector has given permission.

5 Sanctions

Sanctions, such as an infringement notice, licence suspension, enforceable undertaking (EU) or prosecution are penalties for non-compliance and act as a further incentive to comply with the legislation. Sanctions also act as a general deterrent for other duty holders who may consider contravening their duties.

5.1.1 Infringement Notice

Infringement notices (on the spot fines) are issued under the *State Penalties Enforcement Regulation 2014* (SPER) and may be issued by an inspector if they believe, on reasonable grounds, that a person is committing or has committed an infringement notice offence under the legislation. Infringement notices may be issued to an organisation, individual or both.

There are currently 240 infringement notice offences for contraventions of the WHS and ES legislation. The regulator has identified a smaller number as priority areas for enforcement. An inspector will have additional focus on these areas, and if an inspector identifies a contravention of a provision determined by the regulator to be a priority, the inspector will issue an infringement notice. The provisions determined as a priority by the regulator will change periodically to reflect current and emerging risks.

The priority areas do not prevent an inspector from issuing an infringement notice for an infringeable offence not identified as a priority; an inspector may issue an infringement notice for any infringement notice offence.

The full list of infringement notice offences, including those indicated as priority areas for enforcement, is available on the Worksafe website.

An inspector will use other directed compliance measures, in conjunction with infringement notices, to ensure the contravention is remedied.

Infringement notices may be issued for risk based or systematic WHS management contraventions, such as *failure to ensure, so far as is reasonably practicable, that a person, plant or thing did not come within an unsafe distance of an overhead or underground electric line* (SPER Schedule 1 - ES Reg s68(1)) or failure of the duty holder to comply with *registration holder must keep registration document available for inspection under the Act* (SPER Schedule 1 - WHS Reg s262(1)).

An infringement notice may be revoked and the matter referred for prosecution in circumstances where further investigation reveals that there is reason to pursue a higher order sanction.

If the recipient of an infringement notice makes full and proper payment of the penalty then the liability of the alleged offence is discharged and no prosecution may be brought. However, where the fine has not been paid, or payment has commenced by instalment and not satisfied in full, the infringement notice may be withdrawn, the penalty amount already paid refunded, and prosecution commenced.

The recipient of an infringement notice may choose a hearing in the Magistrates Court instead of paying the fine.

5.1.2 Review of authorisations

A range of authorisations, such as licences, permits, registration and certificates are issued under the legislation. The terms and conditions of a specific authorisation, such as high risk work and electrical licences, are set out in the relevant documents.

If a duty holder fails to adhere to the conditions set out in the authorisation documents, the licence may be suspended, cancelled or conditions of a licence amended. Suspension or cancellation of a licence or other authorisation is typically used where the offence was of a nature that exposed persons to serious risk or where other penalties have not resulted in improvements that reduce risk. Details of all licence suspensions and cancellations will be published on the Worksafe website.

5.1.3 Enforceable Undertakings (WHS Acts216, ES Act s49)

An EU is an enforcement pathway permitted under the legislation as an alternative to a court imposed sanction following an alleged contravention of the legislation. An EU cannot be accepted for a category 1 offence⁵ (reckless conduct), category 2 causing death, or industrial manslaughter.

An EU allows a duty holder to voluntarily enter into a legally-binding agreement with WHSQ to implement effective health and safety initiatives. The agreement outlines actions the duty holder will undertake to address the contravention and deliver tangible benefits for workers, industry, and the community as a whole.

An EU is not imposed on a duty holder. A duty holder must apply to the regulator who considers the application and makes a decision about whether or not to accept it.

The regulator's decisions about EUs are made in accordance with its *Guidelines for the acceptance of an Enforceable Undertaking*.

⁵ See definition in the appendix 1: glossary

5.1.4 Prosecution

Prosecuting duty holders aims to provide a powerful deterrent to others and ensures that those who contravene the legislation are held to account. It draws attention to the consequences of contravening the legislation.

Serious contraventions of the legislation may be referred to the independent statutory office of the Director of Workplace Health and Safety Prosecutions (DWHSP). The DWHSP makes the decision to prosecute or not.

The DWHSP may decide to take prosecution action as a result of an investigation whether or not a contravention has resulted in a death, injury, illness or disease actually occurring.

Category 1 offences are referred to the Director of Public Prosecutions with the decision to prosecute being made by the DPP in line with the DPP's Prosecution Guidelines.

<https://www.worksafe.qld.gov.au/laws-and-compliance/prosecutions/guidelines-prosecutions>

6 Information and advice about compliance (WHS Act s160(a); ES Act 137(a))

When issuing a notice, an inspector will provide information to support understanding of the notice. This information will be provided verbally and, in some instances, may be confirmed or expanded upon in writing (e.g. by email). Such information should include clear explanation of the contravention and a brief explanation of what compliance looks like i.e. the evidence the inspector will be looking for to determine whether the notice is complied with. An inspector may also provide practical guidance and support, based on reliable information sources such as [worksafe.qld.gov.au](http://www.worksafe.qld.gov.au), Safe Work Australia or other WHS regulator websites, Codes of Practice and Australian/New Zealand Standards.

Where there isn't an apparent contravention or where the level of risk management does not meet the legal requirements for issuing a notice, an inspector may also provide practical guidance and compliance support.

In the circumstances where general information and advice is provided without a notice being issued, the inspector may follow this up by providing information in writing (e.g. email) with the regulator retaining a record of the information provided. For example, in a post workplace visit email, the inspector may provide links to, or copies of, any guidance or research discussed during the visit.

In some circumstances a referral may also be made to one of the regulator's programs or services, such as Workplace Assistance services, the Work Health Design Branch, the Safety Leadership at Work program or Mental Health at Work. These programs and services aim to assist the PCBU to comply through directed guidance which includes education, training or support.

7 Review of decisions

A person affected by an inspector's decision (other than the issue or content of an infringement notice) may apply to the regulator for an internal review of that decision. In these circumstances an eligible person may apply to the relevant body to have the decision reviewed:

- Internal review – application can be made to the regulator within 14 calendar days of the decision coming to the notice of the eligible person, or in relation to an improvement notice, an application must be made in the time stated in the notice or 14 calendar days, whichever is shorter.
- External review – application can be made to review the original decision or the internal review decision, within a specified time from the day the applicant received or became aware of the decision:
 - 30 calendar days to the Queensland Industrial Relations Commission
 - 28 calendar days to the Queensland Civil Administrative Tribunal.

The [list of reviewable decisions](#) document outlines who is eligible to apply for a review and who would undertake the external review.

Note: neither the decision to issue nor the content of an infringement notice is reviewable. The recipient of an infringement notice may choose a hearing in the Magistrates Court instead of paying the fine.

8 Periodic review

This policy will be reviewed at least every five years or where legislative amendments require a revision. The purpose of the review is to:

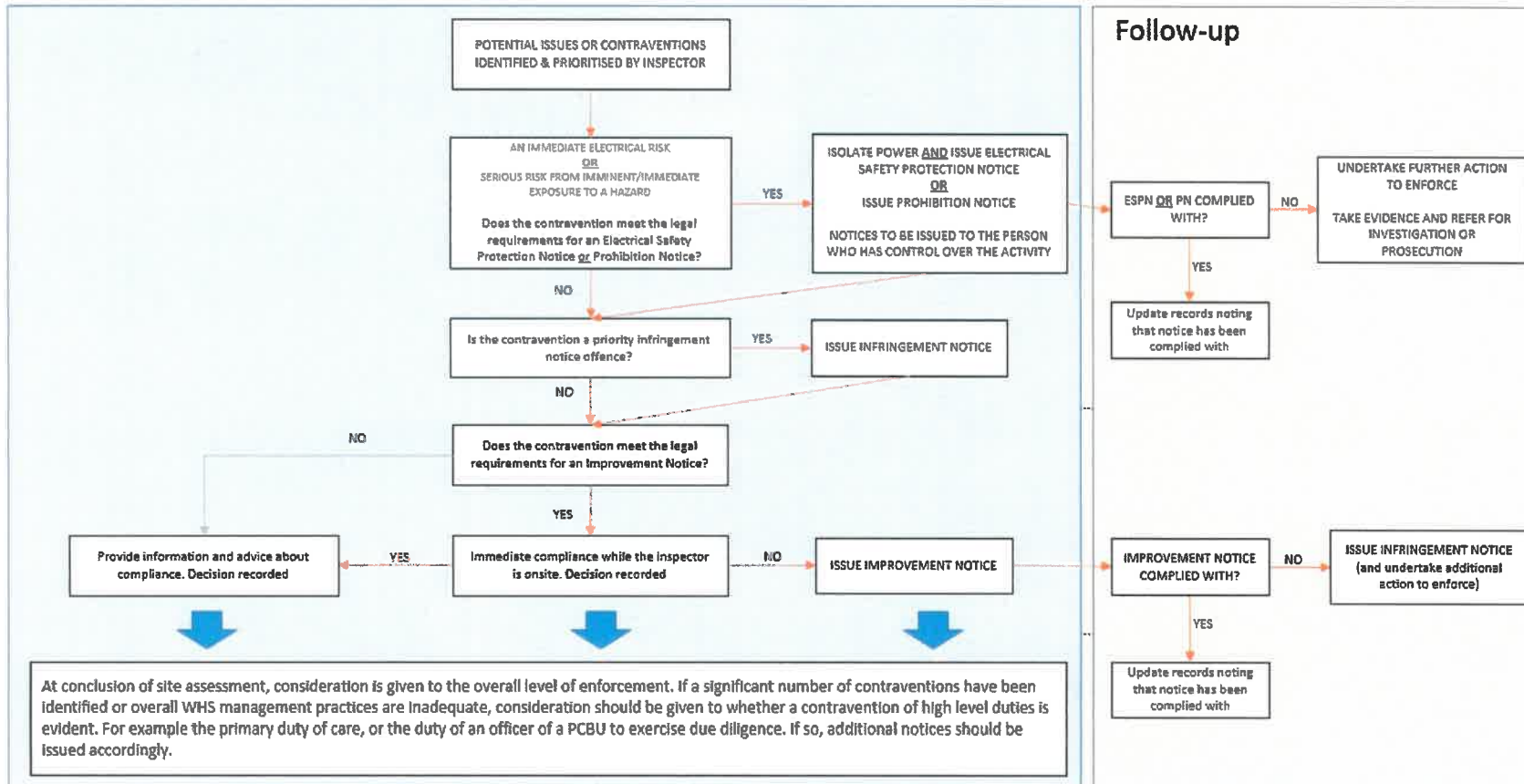
- address any operational inefficiency with this policy
- ensure this policy is achieving its objectives
- reflect new approaches to compliance and enforcement, and
- reflect any relevant legislative amendments.

9 Glossary

<i>Term</i>	<i>Definition</i>
<i>Authorisations</i>	A person or worker can be authorised under the legislation by a licence, permit, registration or other authority issued by the regulator under the legislation.
<i>Contravention</i>	Contravention means to an act of breaking or failing to observe a law
<i>Compliance</i>	Following the law, i.e. acting in accordance with the legislation, including fulfilling duties under the Act or Regulation and obtaining the right approvals or permissions. It means conducting authorised activities in accordance with any conditions or regulatory requirements.
<i>Category 1 offence</i>	Reckless conduct – category 1 (s31 WHS Act or s40B ES Act). A person commits a category 1 offence if – <ul style="list-style-type: none"> a) The person has a health and safety duty; and b) the person, without reasonable excuse, engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; and c) the person is reckless as to the risk to an individual of death or serious injury or illness.
<i>Duty holder</i>	The primary duty holder is the person conducting a business or undertaking (PCBU) as described under WHS Act s19 or ES Act s30. If a PCBU has a duty or obligation, officers of the PCBU have a duty to exercise due diligence to ensure the PCBU complies that duty with (s27 WHS Act, s38A ES Act). Principal contractors in high risk construction have additional duties under the WHS Regulation (Chapter 6 WHS Regulation). Workers and other persons also have duties under sections 28-29 of the WHS Act.
<i>ES Act</i>	<i>Electrical Safety Act 2002</i>
<i>ES Regulation</i>	<i>Electrical Safety Regulation 2013</i>
<i>Enforcement response</i>	Action that aims to enforce compliance in order to reduce or stop workplace related death, injuries and disease by using: <ul style="list-style-type: none"> • directive compliance to achieve a remedy of a contravention through the issue of notices; and/or • sanctions to deter non-compliance by holding duty holders to account, through prosecution, enforceable undertakings or the issue of infringement notices.
<i>Inspector</i>	An inspector appointed under s156 WHS Act and s123 ES Act.
<i>Apparent non-compliance</i>	Apparent failure to comply with any provision of the relevant Act and Regulation which leads to further investigation into whether there was a contravention of the relevant legislation.
<i>Notifiable incident</i>	Any of the following events that arise from work: <ul style="list-style-type: none"> • the death of a person; or • a serious injury or illness, or • a dangerous incident

	As defined in WHS Act s35 - s37.
<i>Reasonably practicable</i>	Reasonably practicable, in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including— <ul style="list-style-type: none"> a. the likelihood of the hazard or the risk concerned occurring; and b. the degree of harm that might result from the hazard or the risk; and c. what the person concerned knows, or ought reasonably to know, about— <ul style="list-style-type: none"> i. the hazard or the risk; and ii. ways of eliminating or minimising the risk; and d. the availability and suitability of ways to eliminate or minimise the risk; and e. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
<i>Regulator</i>	The Regulator means the person appointed by the Governor in Council under Schedule 2 Part 1 s1 WHS Act
<i>regulator</i>	The regulator means Workplace Health and Safety Queensland and the Electrical Safety Office
<i>Residual Risk</i>	WHS Matrix – The 'risk rating' is determined by comparing the quality of the controls used by the duty holder compared with standards (legislation, Codes of Practice, etc.), taking into account what is reasonably practicable.
<i>WHS Act</i>	The <i>Work Health and Safety Act 2011</i>
<i>WHS Regulations</i>	The <i>Work Health and Safety Regulations 2011</i>
<i>WHSQ</i>	Workplace Health and Safety Queensland
<i>Workplace</i>	Any place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work (WHS Act s8). This includes a vehicle, vessel, aircraft or other mobile structure; and any waters and any installation on land, on the bed of any waters or floating on any waters.

Flowchart 1: Enforcement overview



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worksafe.qld.gov.au

COMMISSION OF INQUIRY INTO THE CFMEU AND MISCONDUCT IN THE
CONSTRUCTION INDUSTRY

ANNEXURE SHEET

This is the document referred to as **DC-2** in the statement of David Cappelletti
~~declared~~/affirmed in Brisbane on 3 March 2026



.....
David Cappelletti



.....
Witness (Lawyer)

Background

The enforcement note provides direction by the Regulator in the exercise of the inspector's compliance powers (i.e. under (s162 WHS Act and s137B ES Act) when assessing compliance and implementing enforcement actions when non-compliance is found for contraventions of the infringeable provisions listed in **Schedule 1**.

Enforcement Action

Inspectors **must** assess compliance with any provision listed in schedule 1 when undertaking assessment or investigation work that concerns the provision.

Example- Failure to comply with an improvement notice.

Under s193 of the WHS Act and s146B of the ES Act, the person issued an improvement notice must comply with the notice prior to the compliance date specified on the notice.

Inspectors **must** assess compliance with all improvement notices issued. The Improvement Notice will also include information informing the duty holder of the need to provide satisfactory evidence of compliance with the Improvement Notice and that failure to provide this evidence by the compliance date will result in a return visit and imposition of an Infringement Notice where compliance with the Improvement Notice has not occurred.

Evidence of compliance provided by the notice recipient must clearly demonstrate that compliance has occurred i.e. simply completing and returning the tear off 'action taken' statement from a printed notice or providing unsubstantiated assertions by the relevant person, is not sufficient. Verification should be from multiple sources such as: statements from the PCBU and the HSR; photographs; and, copies of invoices or other documents.

If the inspector has not received satisfactory evidence of compliance prior to the Compliance Date, the inspector must then visit the worksite or workplace to determine whether the Improvement Notice has been complied with. The follow-up visit should occur on the Compliance Date or as soon as possible after the Compliance Date, and must occur within 5 working days of the Compliance Date. Follow-up visits which do not occur on the Compliance Date **must** be approved by the inspector's manager and recorded.

An Infringement Notice must be issued if an inspector conducts a follow-up visit to check compliance with the Improvement Notice and finds that the Improvement Notice has not been satisfactorily complied with.

Assessing compliance means gathering evidence to form a reasonable belief about whether the person has complied with this provision. A record, supported by the evidence gathered, **must** be made of the inspector's decision on whether, or not, the person has complied with this provision.

When an inspector decides that the person has not complied with this provision, they **must in the first instance** issue an infringement notice. If there are exceptional circumstances, for example the notice recipient is the injured party, approval to **not** issue an infringement notice must be obtained from the inspector's manager and this decision and reasons recorded.

If the inspector reasonably believes the issuing of an infringement notice to be an inadequate sanction, then the inspector should discuss the use of a higher sanction with their manager. Such higher level sanctions include injunctions or prosecution.

The evidentiary standard required to issue an infringement notice is a “reasonable belief” that the duty holder has failed to comply with the provision. A “reasonable belief” is less than “proof” but more than “suspicion.” In *George v Rockett* (1990) 170 CLR 104 the High Court held that “When a statute prescribes that there must be “reasonable grounds” for a state of mind – including suspicion and belief – it requires the existence of facts which are sufficient to induce that state of mind in a reasonable person.”

The basis of a reasonable belief can be determined by making sufficient inquiries (including as relevant the exercise of powers to require production of documents and answers to questions and to copy and retain documents) and an analysis of the information obtained to reach the relevant conclusion upon which to issue the notice. It will be supported if information from one source is validated/verified by the same information from another source, rather than relying on one source only. For example a photograph showing a contravention that is validated by a worker’s statement.

However should the recipient of the infringement notice elect to have the matter heard in court, the higher standard of ‘beyond reasonable doubt’ applies. Therefore evidence to the higher standard should either exist at the time of issue of the infringement notice or be obtainable if the person elects to have the matter heard in court. For example an inspector might form a reasonable belief after talking with workers about the contravention and making notes of these conversations. If the person elects to have the matter heard in court the inspector could take formal and more detailed statements from these workers.

Sources of evidence may include:

- observations, photographs, measurements, testing, sampling;
- information obtained from inquiries with persons who work at the workplace or are associated with the workplace;
- information obtained from reviewing relevant documents;
- information on relevant provision and how a person might comply with the provision, for example from relevant Regulations, Codes of Practice, Australian Standards and other published guidance material; and
- advice provided by suitable technical specialists (if relevant)

Inspectors must record in detail how they formed their reasonable belief in their notebook and ensure other evidence relied upon would be admissible in a court.

Schedule 2 includes a summary of the evidence for each offence that must be identified before the issue of an infringement notice. Inspectors should use the hyperlinks in Schedule 1 to find the relevant evidence summaries in Schedule 2.

Additionally it is OIR policy that, in addition to issuing an infringement notice for a scheduled offence, an improvement, prohibition or electrical safety prohibition notice (as relevant) should also be issued by an inspector if the relevant contravention, including systematic WHS management failure or unmanaged serious risk, has not been remedied.

Further requirements concerning infringement notices, including their drafting and issue can be found in the relevant operational policy¹. An example infringement notice is attached.

¹ OFSWQ operational procedure – Infringement notices v5.0 Nov 2016.

Example infringement notice:

FORM24
V1.1.12

ORIGINAL



Infringement notice

ABN 13846 673 994
State Penalties Enforcement Act 1999

This notice is issued under the *State Penalties Enforcement Act 1999* section 13 to a person who is contravening or has contravened a provision that has been designated an offence under the Act or the regulations that may attract an infringement notice. This notice requires the person to whom it is issued to ensure payment by the due date unless other available action is taken (refer to reverse side of notice for relevant information).

Notice No. F

Notice issued to:		
Legal name of alleged offender:	XYZ PTY LTD.	
ABN:	123 456 789 10	ACN: 123 456 789
Trading as (if applicable):	XYZ.	
Address:	456 JOHNSON STREET, MCDOWALL, QUEENSLAND	
	Postcode:	4053
Date of birth:	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	Contact number:
Identification type:	ID number:	

Details of alleged contravention:		
Location of offence		
123 SMITH STREET, MCDOWALL, QUEENSLAND – COMPRESSOR SHED		
I, <u>WILLIAM BLOGGS</u>	reasonably believe on <u>15 AUGUST 2016</u>	at <u>12:10</u>
Inspector name	Date	24 hour time
you committed an infringement notice offence by contravening a provision of the:		
<input checked="" type="checkbox"/> <i>Work Health and Safety Act 2011</i> , section <u>193</u>	<input type="checkbox"/> <i>Work Health and Safety Regulation 2011</i> , regulation _____	
<input type="checkbox"/> <i>Electrical Safety Act 2002</i> , section _____	<input type="checkbox"/> <i>Electrical Safety Regulation 2002</i> , regulation _____	
<input type="checkbox"/> <i>Safety in Recreational Water Activities Act 2011</i> , section _____	<input type="checkbox"/> <i>Safety in Recreational Water Activities Act 2011</i> , section _____	
Offence code: <u>7000</u>		
Penalty amount \$ <u>3600</u> Payment must be received within 28 days after the date of this notice.		

Description of the offence:
FAILURE TO COMPLY WITH IMPROVEMENT NOTICE I123456 WITHIN PERIOD STATED.

Issuing inspector:		
<u>William Bloggs</u>	<u>1234</u>	<u>1300 362 128</u>
Signature of inspector	Inspector's ID	Inspector's contact number
<u>15/08/2018</u>	<u>PO Box 820 Lutwyche QLD 4030</u>	
Date issued	Inspector's work address	

Service method:		
<input checked="" type="checkbox"/> Delivered personally	<input type="checkbox"/> Left for a person at the workplace	<input type="checkbox"/> Registered Post <input type="checkbox"/> Fax <input type="checkbox"/> Left at the person's last known place of residence or business
<u>Joseph Jones</u>	<u>Management Representative For Person With Management Or Control Of A Workplace</u>	
Notice given to	Relationship to person to whom notice is issued	
Information about payment options is detailed on the back of this notice.		

PRIVACY COLLECTION STATEMENT
The Department of Justice and Attorney-General collects, uses, discloses and stores information in accordance with legislation it administers and all applicable privacy laws. This includes information collected by Inspectors of the Department. Note that privacy laws do not apply if other laws conflict or allow or require the collection of information, and do not apply to the collection of information by The Department of Justice and Attorney-General to the extent that it is exercising its law enforcement functions and non-compliance with privacy legislation is deemed necessary to fulfil those functions.
The Department of Justice and Attorney-General privacy information is on our website at www.justice.qld.gov.au

SCHEDULE 1- PRIORITY INFRINGEMENT OFFENCES

Note: Use hyperlinks to go to elements tables for each offence in schedule 2

Priority Infringement offences Work Health and Safety Act 2011					
Legislation	Section	Category	Code	Description	Penalty
WHS Act 2011	38(7)	Incident Notification	7001	PCBU failed to keep record of notifiable incident for at least 5 years from day notice of incident was given to regulator	(I) \$600 (C) \$3000
WHS Act 2011	70(2)	HSRs	7005	PCBU failed to allow HSR to spend the time reasonably necessary to exercise his/her powers and/or functions	(I) \$720 (C) \$3600
WHS Act 2011	193	Enforcement Measures	7000	Failure to comply with improvement notice within period stated. Improvement Notice I.....	(I) \$720 (C) \$3600

Priority Infringement offences Work Health and Safety Regulation 2011					
Legislation	Section	Category	Code	Description	Penalty
WHS Regulation 2011	50(1)	General Workplace Management	8003	PCBU failed to ensure carrying out of air monitoring as prescribed to determine airborne concentration of a substance/mixture to which an exposure standard applies	(I) \$720 (C) \$3600
WHS Regulation 2011	66(2)	Confined Spaces	8005	PCBU failed to ensure that risk assessment for confined spaces was conducted by competent person	(I) \$432 (C) \$2160
WHS Regulation 2011	69	Confined Spaces	8009	PCBU failed to provide worker entering confined space with system of work that included: (a) continuous communication with worker from outside, and (b) monitoring of conditions in confined space by standby person in vicinity, and if practicable, observing the work being carried out	(I) \$720 (C) \$3600
WHS Regulation 2011	85(1)	High Risk Work	8017	PCBU directed/allowed worker to carry out high risk work without seeing written evidence from worker that worker has relevant high risk work licence	(I) \$432 (C) \$2160
WHS Regulation 2011	85(2)	High Risk Work	8018	PCBU directed/allowed worker to carry out high risk work without seeing written evidence from worker that: worker is undertaking the relevant course of training OR worker has applied for relevant licence OR worker holds relevant certification	(I) \$432 (C) \$2160
WHS Regulation 2011	85(3)	High Risk Work	8019	PCBU has directed/allowed worker to supervise high risk work without seeing written evidence that supervising worker holds relevant high risk work licence	(I) \$432 (C) \$2160

WHS Regulation 2011	175(1)	Diving Work	8034	PCBU directed/allowed a worker to carry out general diving work without seeing written evidence from worker that worker had relevant competence	(I) \$432 (C) \$2160
WHS Regulation 2011	299(1)	Construction work- Work Method Statements	9001	PCBU failed to ensure that a safe work method statement for high risk construction work was prepared before the work commenced	(I) \$720 (C) \$3600
WHS Regulation 2011	300(1)	Construction work- Work Method Statements	9002	PCBU failed to ensure that high risk construction work was carried out in accordance with the safe work method statement	(I) \$720 (C) \$3600
WHS Regulation 2011	300(2)	Construction work- Work Method Statements	9003	PCBU failed to ensure that work not being carried out in accordance with the safe work method statement was stopped immediately, or as soon as it was safe to do so, and only resumed once the work was being done in accordance with the safe work method statement	(I) \$720 (C) \$3600
WHS Regulation 2011	301	Construction work- Work Method Statements	8068	PCBU failed to give PC a copy of safe work method statement for high risk construction work before work commenced	(I) \$144 (C) \$720
WHS Regulation 2011	302	Construction work- Work Method Statements	8069	PCBU failed to ensure that safe work method statement was reviewed and revised (as necessary) after revision of relevant control measures under section 38	(I) \$432 (C) \$2160
WHS Regulation 2011	303(3)	Construction work- Work Method Statements	8072	PCBU failed to ensure that a copy of safe work method statement was readily accessible to worker engaged by PCBU to carry out high risk construction work for the period prescribed	(I) \$432 (C) \$2160
WHS Regulation 2011	304(3)	Construction work- Excavation work	8074	Person with management or control failed to provide current underground essential services information to person engaged to carry out excavation work	(I) \$432 (C) \$2160
WHS Regulation 2011	304(5)	Construction work- Excavation work	8075	Person with management or control failed to ensure current underground essential services information was available for inspection for relevant period as prescribed	(I) \$144 (C) \$720
WHS Regulation 2011	306(1)	Construction work- Excavation work	9004	PCBU failed to ensure that, when excavating a trench at least 1.5 metres deep, the work area was secured from unauthorised access, including inadvertent access	(I) \$720 (C) \$3600
WHS Regulation 2011	306(7)	Construction work- Falls	8076	PCBU failed to ensure that enough distance was available for person using fall arrest harness system to fall without hitting an object, the ground or another surface, other than a vertical surface	(I) \$720 (C) \$3600
WHS Regulation 2011	306K(2)	Construction work- Ladder Safety	8077	PCBU used, or allowed another person to use, single or extension ladder to gain access to a place in a manner that is not permitted, or to undertake construction work that is not permitted	(I) \$720 (C) \$3600
WHS Regulation 2011	306L(3)	Construction work- Ladder Safety	8078	PCBU used, or allowed another person to use, single or extension ladder for construction work in a manner that is not permitted; or without prescribed control	(I) \$720 (C) \$3600

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				measure, and without the ladder being secured as prescribed	
WHS Regulation 2011	306O(5)	Construction work- Ladder Safety	8079	PCBU failed to ensure platform supported by trestle ladders is no higher than 5 metres and has an unobstructed surface at least 450mm wide along length of platform	(I) \$720 (C) \$3600
WHS Regulation 2011	306P(2)	Construction work- Scaffolding	8080	PCBU erected, or allowed another person to erect scaffolding where a person could fall at least 3m for housing construction work, or 2m for other construction work, while erecting the scaffolding, without having control measures or fall arrest system as prescribed in s306P	(I) \$720 (C) \$3600
WHS Regulation 2011	306Q(2)	Construction work- Scaffolding	9006	PCBU failed to use the prescribed control measures when dismantling scaffolding resulting in a risk of a person falling 3 metres in housing construction work or 2 metres in construction work that is not housing construction work	(I) \$720 (C) \$3600
WHS Regulation 2011	312	Construction work- Safe Work Method Statements	8082	PC failed to take all reasonable steps to obtain copy of safe work method statement for high risk construction work before relevant work commenced	(I) \$432 (C) \$2160
WHS Regulation 2011	313(3)	PCBU Management plan	8085	PCBU failed to ensure that a copy of WHS management plan was readily accessible to person who was to carry out construction work connected with project for prescribed period	(I) \$432 (C) \$2160
WHS Regulation 2011	315A(2)	Construction work- Amenities	8087	PC failed to ensure amenities were maintained in hygienic, safe and serviceable condition with relevant systems as prescribed	(I) \$720 (C) \$3600
WHS Regulation 2011	315F(3)	Construction work- Falling objects	8088	(For construction work other than civil/housing construction work) PC failed to ensure correct barricade or hoarding was erected as prescribed	(I) \$720 (C) \$3600
WHS Regulation 2011	315G(3)	Construction work- Falling objects	8089	For measured angle of 75° or more, other than in demolition work or work erecting or dismantling formwork, PC failed to ensure implementation of at least 1 prescribed additional control measure before construction work starts	(I) \$720 (C) \$3600
WHS Regulation 2011	315L(3)	Construction work- Falling objects	8090	PC failed to ensure implementation of a prescribed control measure before lifting load over adjoining area	(I) \$720 (C) \$3600
WHS Regulation 2011	316	Construction work- General Induction	8091	PCBU failed to ensure provision of general construction induction training to worker as prescribed	(I) \$432 (C) \$2160
WHS Regulation 2011	346(1)	Hazardous Chemicals	9011	(a) PCBU failed to ensure that a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace (b) PCBU failed to ensure that the register of hazardous chemicals is maintained so that the information in the register is up to date	(I) \$720 (C) \$3600
WHS Regulation 2011	346(3)	Hazardous Chemicals	9012	PCBU failed to ensure that the hazardous chemical register is readily available to any worker using, handling or storing a hazardous	(I) \$432 (C) \$2160

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				chemical or anyone else likely to be affected by a hazardous chemical at the workplace	
WHS Regulation 2011	419(1)	Asbestos Management	9013	PCBU must not carry out, direct or allow a worker to carry out work involving asbestos, except as expressly allowed for under s 419	(I) \$720 (C) \$3600
WHS Regulation 2011	425(1)	Asbestos Management	8106	Person with management or control failed to ensure that asbestos register was prepared and kept at workplace	(I) \$432 (C) \$2160
WHS Regulation 2011	446(1)	Asbestos Management	9014	PCBU must not use, direct or allow a worker to use high-pressure water spray or compressed air on asbestos/ACM	(I) \$432 (C) \$2160
WHS Regulation 2011	446(3)	Asbestos Management	9015	PCBU must not use, direct or allow a worker to use power tools, brooms or any implements that cause the release of airborne asbestos into the atmosphere, unless the use of the equipment is controlled	(I) \$432 (C) \$2160
WHS Regulation 2011	449	Asbestos Management	8120	Person with management or control failed to ensure that PCBU carrying out demolition/refurbishment was given copy of asbestos register before work commenced	(I) \$720 (C) \$3600

SCHEDULE 2- Summary of the evidence for each offence that must be identified before the issue of an infringement notice

Notifiable incident– record keeping	
Elements of s38(7) of the WHS Act	Evidentiary Notes
A person conducting a business or undertaking	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
to whom a notifiable incident has occurred	Identify specific notifiable incident(s). A notifiable incident means the death of a person; or a serious injury or illness of a person; or a dangerous incident. See WHSA s35
must keep a record for at least 5 years from the day that notice of the incident is given to the regulator.	Identify the specific incident(s) notified to the regulator. Search CISr records, view documents kept at the workplace. Confirm that there is a record kept by the PCBU for those incidents notified for at least 5 years. e.g. view documents, make inquiries.

HSR role – reasonable time	
Elements of s70(2) of the WHS Act	Evidentiary Notes
A person conducting a business or undertaking	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must allow a health and safety representative	Identify the HSR. Correct legal name and address. Determine that the person is a HSR in accordance with Act. See WHSA Part 5 Div 3
to spend the time reasonably necessary	Identify the time allowed the HSR to exercise their powers and functions e.g. make inquiries, inspect documents Determine if this time is the amount reasonably necessary to exercise their powers and functions in the relevant circumstances.
to exercise his or her powers and perform his or her functions under this Act.	Identify the specific powers and functions exercised by the HSR and the relevant circumstances e.g. make inquiries, inspect documents. See WHSA s68

Improvement notice – non compliance	
Elements of s193 of the WHS Act	Evidentiary Notes
The person	The person named on the improvement notice. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. Site address details (offence location-where the person has not complied with the notice). Date and time

To whom an improvement notice is issued	The notice must have been properly issued. Identify evidence which proves the issue or service of the improvement notice. See WHSA s209
Must comply with the notice within the period stated in the notice.	The evidence of the failure to comply must show that the contravention has not been remedied by the compliance date. There must be evidence that the contravention stated on the notice still exists after the compliance date.

Air monitoring – where exposure standards apply	
Elements of s50(1) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
Must ensure that air monitoring is carried out to determine the airborne concentration of a substance or mixture at the workplace	Identify if air monitoring has been carried out to determine the airborne concentration of a specified substance or mixture at the workplace e.g. air monitoring records. For 'air monitoring' see Safe Work Australia- Workplace Exposure Standards for Airborne Contaminants 2013 (SWA Standard); and Safe Work Australia – Guidance on the Interpretation of Workplace Exposure Standards for Airborne Contaminants 2013 (SWA Guide)
To which an exposure standard applies	Confirm that the exposure standard applies to the airborne concentration of the specified substance or mixture at the workplace. See Safe Work Australia- Workplace Exposure Standards for Airborne Contaminants 2013 (SWA Standard); and Safe Work Australia – Guidance on the Interpretation of Workplace Exposure Standards for Airborne Contaminants 2013 (SWA Guide)
if – (a) the person is not certain on reasonable grounds whether or not the airborne concentration of the substance or mixture at the workplace exceeds the relevant exposure standard OR (b) monitoring is necessary to determine whether there is a risk to health.	Confirm if either of the circumstances apply. (a) Identify on what reasonable grounds the person is certain that the exposure standard is not being exceeded e.g. previous test results, reports from competent persons, published information about the substance. OR (b) Determine if monitoring is necessary to determine the risk to health. e.g. medical certificates for health issues associated with the substance. Published information about the substance.

Confined space risk assessment – competent person	
Elements of s66(2) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must ensure that a risk assessment	Identify and copy the specific risk assessment for the specific confined space. The risk assessment must be written.

	See WHSR s66(3)
is conducted by a competent person	Identify the person who conducted the risk assessment. Legal name and address. Determine whether they are competent- a person who has acquired through training, qualifications or experience the knowledge and skills to carry out the task e.g. inspect qualifications, inquire about experience. See WHSR Schedule 19 (definition)
for the purpose of subsection (1). See WHSR s66(1) under part 3.1, manage risks associated with confined spaces including risks associated with entering, working in, on or in the vicinity of the confined space, (including a risk of a person inadvertently entering the confined space).	Review the risk assessment. Determine if it meets the purposes of WHSR s 66(1) e.g. does it manage the risks of the specific confined space in accordance with WHSR part 3.1? Make observations and inquiries. See WHSR s62

Confined space – system of work inc. communication and standby person	
Elements of s69 of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must ensure that a worker does not enter a confined space to carry out work	Identify how the PCBU has ensured that workers do not carry out work in confined spaces that is not in accordance with the communication and safety monitoring requirement stated below e.g. review systems of work, risk assessments, training and supervision. See WHSR s62
unless the person provides a system of work that includes— (a) continuous communication with the worker from outside the space; AND	Determine if the system of work provides for continuous communication with the worker from outside e.g. observations, inquiries documents.
(b) monitoring of conditions within the space by a standby person who is in the vicinity of the space and, if practicable, observing the work being carried out.	Identify if the system of work provides for monitoring of conditions within the space by a standby person who is in the vicinity of the space. Consider how different types of conditions might be monitored. Determine the practicability of the monitoring, including the observation of the work by the standby person e.g. observations, inquiries documents.

High risk work – evidence of HRW licence	
Elements of s85(1) of the WHS Regulation	Evidentiary Notes
A person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5

	Site location where work is carried out (offence location). Date and time. See WHSA s8
must not direct or allow a worker to carry out high risk work for which a high risk work licence is required	Identify the specific worker who been directed or allowed to carry out specific HRW for which a HRWL is required e.g. inquiries, observations, documents. See WHSR Schedule 3
unless the person sees written evidence provided by the worker that the worker has the relevant high risk work licence for that work.	Determine whether the PCBU has seen written evidence that the worker holds the relevant high risk work licence for that high risk work e.g. copy of HRWL in PCBU's records, inquiries, documents. See WHSR Schedule 3

High risk work – training, certification or licence application	
Elements of s85(2) of the WHS Regulation	Evidentiary Notes
A person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must not direct or allow a worker to carry out high risk work under sections 82(1) or 1A	Identify the specific worker who been directed or allowed to carry out specific HRW under either the circumstances stated in WHSR s82(1) OR 1A e.g. inquiries, observations, documents. See WHSR Schedule 3
unless the person sees written evidence provided by the worker that the worker—	Determine whether the PCBU has seen written evidence that is compliant with the types of work being undertaken, evidence required and timeframes as stated below e.g. training enrolment, certification, licence application, inquiries, other documents.
(a) for work carried out under section 82(1)—is undertaking the course of training mentioned in section 82(1)(a); or	Identify if specific work is being carried out by the worker under s82(1) e.g. enrolment documentation for licence certification training. See WHSR Schedules 3 and 4
(b) for work carried out under section 82(1A)(a)—holds the certification mentioned in section 82(1A); or	Identify if specific work is being carried out by the worker under s82(1A)(a) -person who holds a certification for a specified VET course for high risk work and is within 60 days from the issue of the certification e.g. inquiries, certificates, issue dates. See WHSR Schedules 3 and 4
(c) for work carried out under section 82(1A)(b)—has applied for the licence mentioned in that paragraph.	Identify if specific work is being carried out by the worker under s82(1A)(b) e.g. inquiries, certificates, licence applications, issue dates, any written notice to the worker concerning refusal of their application. See WHSR s91

High risk work licence - supervision	
Elements of s85(3) of the WHS Regulation	Evidentiary Notes

A person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must not direct or allow a worker to supervise high risk work as mentioned in sections 82(1) and 84	Identify the specific worker who been directed or allowed to supervise specific HRW undertaken by another specific worker as mentioned in either WHSR s82(1) or 84 e.g. make inquiries, observations, documents. See WHSR Schedule 3
unless the person sees written evidence that the worker holds the relevant high risk work licence for that high risk work.	Determine whether the PCBU has seen written evidence that the worker holds the relevant high risk work licence for that high risk work e.g. copy of supervisor's HRWL held by PCBU, inquiries, documents. See WHSR Schedule 3

General diving work - competencies	
Elements of s175(1) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
Must not direct or allow a worker to carry out general diving work	Identify the specific worker(s)- legal name and address. Confirm the specific work being undertaken is general diving work- e.g. observations, photographs, contracts. See WHSR Schedule 19 definitions Identify how the PCBU has directed or allowed the work- e.g. inquiries, contract documents, position description.
Unless the person sees written evidence provided by the worker	Written evidence of training, qualifications and/or experience. See WHSR s171, 172 or 173 Provided by the worker- e.g. statement, correspondence. Has the person (PCBU) seen the evidence? Date and time e.g. statement, documents.
That the worker has the relevant competencies required under this division	Determine whether the worker has the relevant competency e.g. training, qualifications and/or experience. See WHSR s171, 172 or 173

SWMS – prepared or already prepared by other person	
Elements of s299(1) of the WHS Regulation	Evidentiary Notes
A person conducting a business or undertaking	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time.

that includes carrying out high risk construction work	Identify the specific HRCW being undertaken e.g. inquiries, observations. See WHSR s291
must, before high risk construction work commences,	Confirm when the HRCW commenced e.g. make inquiries, view documents.
ensure that a safe work method statement for the proposed work— (a) is prepared; OR	Determine whether a specific SWMS was prepared by the PCBU before the specific HRCW commenced e.g. copy of SWMS, inquiries. OR Note: A SWMS is a document for the relevant HRCW that complies with WHSR s299(2), (3) and (4)
(b) has already been prepared by another person.	Determine whether a specific SWMS was prepared by another person before the specific HRCW commenced e.g. copy of SWMS, inquiries.

SWMS – arrangements for ensuring SMWS is followed	
Elements of s300(1) of the WHS Regulation	Evidentiary Notes
A person conducting a business or undertaking	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time.
that includes carrying out high risk construction work	Identify the specific HRCW being undertaken e.g. inquiries, observations. See WHSR s291
must put in place arrangements	Identify any specific arrangements that have been put in place e.g. information for relevant workers, training, supervision e.g. make inquiries, inspect training records, documents.
for ensuring that high risk construction work is carried out in accordance with the safe work method statement for the work.	Identify how the work is to be carried out in accordance with the specific SWMS e.g. what control measures are required. See WHSR s299 Determine if the arrangements put in place will ensure that the HRCW will be carried out in accordance with the specific SWMS e.g. inquiries, documents. See WHSR s299

SWMS – work stopped	
Elements of s300(2) of the WHS Regulation	Evidentiary Notes
If high risk construction work is not carried out in accordance with the safe work method statement for the work,	Identify, for the relevant time, the specific SWMS for the work. See WHSR s299 Identify the specific HRCW carried out at the relevant time e.g. inquiries, documents, observations. See WHSR s291 Site location where construction work is carried out (offence location). Date and time.
The person See WHSR s300(1) A person conducting a business or undertaking that includes carrying out high risk construction work	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5

must ensure that the work— (a) is stopped immediately or as soon as it is safe to do so; and	Determine whether the work was stopped immediately or as soon as it was safe to do so at the relevant time e.g. inquiries, observations.
(b) resumed only in accordance with the statement.	Identify whether the specific HRCW was resumed after the relevant time e.g. make inquiries, observations. If the work was resumed, determine if the work when resumed was in accordance with the specific SWMS e.g. make inquiries, SWMS, observations.

SWMS – copy to PC	
Elements of s301 of the WHS Regulation	Evidentiary Notes
A person conducting a business or undertaking	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time.
that includes carrying out high risk construction work in connection with a construction project must,	Identify the specific HRCW being undertaken e.g. inquiries, observations. See WHSR s291 Confirm the HRCW is being carried out in connection with a specific construction project e.g. inquiries, contracts, documents. See WHSR s292
before the high risk construction work commences,	Identify when the HRCW commenced for the project e.g. inquiries.
ensure that a copy of the safe work method statement for the work is given to the principal contractor.	Determine when/if a copy of the SWMS was given to the PC for the project. See WHSR s299 Identify the PC. Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address.

SWMS – revision reqt	
Elements of s302 of the WHS Regulation	Evidentiary Notes
A person conducting a business or undertaking	Confirm the PCBU must keep a SWMS. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time. See WHSR s299
must ensure that a safe work method statement is reviewed and, as necessary, revised	Determine whether a specific SWMS has been reviewed and as necessary revised in the circumstances stated below e.g. inquiries, SWMS before and after any review or revision.
if relevant control measures are revised under section 38.	Identify specific control measures relevant to the SWMS that have been revised in any of the circumstances stated in WHSR s38 e.g. when a notifiable incident occurs because of

	the risk; or when a HSR requests a review e.g. inquiries, documents, observations. See WHSR s38
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SWMS – readily accessible	
Elements of s303(3) of the WHS Regulation	Evidentiary Notes
The person See WHSR 303 (1) This section applies if a person conducting a business or undertaking must keep a copy of a SWMS.	Confirm the PCBU must keep a SWMS. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time. See WHSR s299
must ensure that for the period for which the statement must be kept under this section	Determine the relevant period for which the SWMS must be kept e.g. inquiries, documents. See WHSR s303(1) and (2)
a copy is readily accessible to any worker engaged by the person to carry out the high risk construction work.	Identify where copies of the specific SWMS are kept e.g. inquiries, documents, databases. Identify specific workers engaged by the person to carry out the specific HRCW relevant to the SWMS e.g. engagement documentation for relevant workers, inquiries. Determine whether the copy of the SWMS is readily accessible to the workers e.g. inquiries, observations, See WHSR s291, 299

Excavation work - underground essential services information	
Elements of s304(3) of the WHS Regulation	Evidentiary Notes
The person with management or control of the workplace	Confirm the person has management or control of the workplace where the excavation work is carried out. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time See WHSR s289
must provide the information obtained under subsection (2)	Determine if the person has provided specific information about current underground essential services for the excavation work and adjacent area e.g., inquiries, documents See WHSR s304(2)
To any person engaged by the person to carry out the excavation work.	Identify whether the information has been provided to all persons engaged to carry out the excavation work e.g. inquiries, documents See WHSR s306(2) See WHSR sched 19 definitions

Excavation work - underground essential services information available for inspection	
Elements of s304(5) of the WHS Regulation	Evidentiary Notes
The person with management or control of the workplace	Confirm the person has management or control of the workplace where the excavation work is carried out.

	<p>Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WWSA s5</p> <p>Site location where construction work is carried out (offence location). Date and time. See WWSR s289</p>
must ensure that the information mentioned in subsection (2)	<p>Determine if the person has obtained specific information about current underground essential services for the excavation work and adjacent area e.g., inquiries, documents See WWSR s304(2)</p>
is available for inspection under the Act	<p>Identify whether the information is available for inspection under the Act e.g. inquiries, documents.</p>
for the period stated in subsection (6).	<p>Determine whether the information is available for the period of the excavation work or, if there has been a notifiable incident, for two years from the incident e.g. make inquiries, view documents See WWSR s304(6)</p>

Trenches - secured from unauthorised access	
Elements of s306(1) of the WWS Regulation	Evidentiary Notes
A person conducting a business or undertaking	<p>Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WWSA s5</p> <p>Site location where construction work is carried out (offence location). Date and time See WWSR s289</p>
who proposes to excavate a trench at least 1.5m deep	<p>Measure the depth of the trench or proposed trench and determine that it is at least 1.5m deep e.g. measurements, inquiries, observations. See WWSR sched 19 definitions</p>
must ensure, so far as is reasonably practicable	<p>Determine whether the 'work area is secured from unauthorised access' SFARP, including the risks and likelihood of unauthorised access e.g. inquiries, observations, photographs. See WWSR s306(2) and WWSA s18</p>
that the work area is secured from unauthorised access (including inadvertent entry).	<p>Identify what, if any, specific controls exist to secure the work area from unauthorised access e.g. inquiries, observations, documents.</p>

Fall arrest harness system – fall distance	
Elements of s306(7) of the WWS Regulation	Evidentiary Notes
<p>A person conducting a business or undertaking</p> <p>This section applies if a fall arrest harness system is used as a control measure to perform construction work. See WWSR s306A definitions</p>	<p>Ensure limitations to the application of this section do not apply.</p> <p>Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WWSA s5</p> <p>Site location where construction work is carried out (offence location). Date and time See WWSR s289</p>

must ensure there is enough distance available	Measure the distance that any person using the fall arrest harness from any place could fall and the distance from the same places to any object, the ground or non-vertical surface that the person could hit e.g. measurements, inquiries, observations. Determine if there is enough distance available. See WHSR s306I(8) matters to be taken into account.
for a person using the system	Identify the specific person(s) and system being used e.g. inquiries, observations, photographs. See WHSR s306A definitions
to fall to prevent the person hitting an object, the ground or another surface, other than a vertical surface.	Using measurements and determination made (see above), identify the specific circumstance(s) where a person using the system is at risk of hitting an object or surface.

Ladders – access 3 points of contact/construction other than permitted work	
Elements of s306K(2) of the WHS Regulation	Evidentiary Notes
The person See WHSR 306K (1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a single or extension ladder.	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time. See WHSR s289
must not use, or allow another person to use,	Confirm whether the PCBU has used the ladder OR has allowed another person to use the ladder. If another person is identified- Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address e.g. make inquiries, observations
the ladder	Identify the specific ladder being used. Ensure it is a single or extension ladder e.g. observations, photographs.
(a) to gain access to a place, unless the person using the ladder has at least 2 hands and 1 foot, or 2 feet and 1 hand, on the ladder from when the person is fully on the ladder to when the person is leaving the ladder; OR	Confirm whether the ladder is being used to gain access to a place and whether the person using the ladder has the necessary points of contact and that this is maintained for the necessary time when on the ladder e.g. observations, photographs, inquiries. OR
(b) to do construction work, other than to gain access to a place under paragraph (a), unless the work is permitted work.	Identify whether the person is doing construction work other than to gain access and determine whether the work is permitted work e.g. observations, photographs, inquiries. See WHSR s289 and s306A definitions- permitted work

Ladders – additional control measures	
Elements of s306L(3) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking See WHSR 306L (1) This section applies if a person conducting a business or undertaking intends to perform construction work that involves a ladder. AND	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5

WHSR s306L(2) Subsection (3) applies if the construction work is permitted work, and, in doing the work, a person could fall— (a) for housing construction work—at least 3m; or (b) otherwise—at least 2m. See WHSR s306A definitions- permitted work	Site location where construction work is carried out (offence location). Date and time. See WHSR s289
must not use, or allow another person to use,	Confirm whether the PCBU has used the ladder OR has allowed another person to use the ladder. If another person is identified- Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address e.g. inquiries, observations
the ladder, if it is a single or extension ladder, unless—	Identify the specific ladder being used. Ensure it is a single or extension ladder e.g. observations, photographs.
(a) the person using the ladder— (i) has at least 3 limbs holding, wrapped around or standing on the ladder in any combination; or Example— holding the ladder with 1 hand while standing on it with 2 feet (ii) is prevented from falling by a control measure, for example, a strap commonly known as a pole strap; or (iii) is using a fall arrest harness system that is not attached to the ladder; AND	Identify whether at the relevant time any of the three stated controls were in place e.g. observations, photographs, inquiries. AND Note the limitation created by WHSR s306L(4)
(b) the ladder is secured— (i) at or near the top to prevent it moving; or Examples— • tying the top of the ladder to a plate fixed to the top of a wall frame • clamping the top of the ladder to structural steel. (ii) at or near the bottom to prevent it moving. Examples— • tying the bottom of the ladder to pegs in the ground. • a person, other than the person using the ladder, holding the ladder in position near the bottom of the ladder.	Identify whether at the relevant time either of the two stated controls to secure the ladder were in place e.g. observations, photographs, inquiries.

Platform supported by trestle ladders	
Elements of s306O(5) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking must ensure See WHSR 306O (1) This section applies if a person conducting a business or undertaking is performing construction work on a platform supported by trestle ladders. See WHSR 306O (4) limits the application of this section	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time. See WHSR s289

(a) the platform has an unobstructed surface at least 450mm wide along the length of the platform; AND	Identify specific platform supported by trestle ladders and used for construction work. Confirm type of construction work and measure distance a person could fall. See WHSR s306A definitions Determine whether the platform has an unobstructed surface at least 450mm wide along its length of the platform e.g. observations, measurements. OR
(b) the platform is not higher than 5m.	Determine whether the platform is higher than 5m e.g. observations, measurements.

Scaffolding – controls while erecting scaffolding	
Elements of s306P(2) of the WHS Regulation	Evidentiary Notes
Person See WHSR 306P(1) person must be a PCBU who intends to perform construction work that is the erecting of scaffolding. Note: Section 306P (3) limits the application of this section	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time. See WHSA s8
must not erect the scaffolding	Identify specific scaffolding that has been erected e.g. observations, inquiries, contractual documents. See WHSR sched 19 definitions
or allow another person to erect the scaffolding	Identify if another person has been allowed to erect the scaffold. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address.
if housing construction work and a person could fall at least 3m in erecting the scaffolding; OR	Identify if the work is housing construction work and a person could fall at least 3m erecting the scaffolding e.g. observations, measurements, photographs, sketches, inquiries, site plans. See WHSR s306A definitions
if not housing construction work and a person could fall at least 2m in erecting the scaffolding.	Identify if the work is NOT housing construction work and a person could fall at least 2m erecting the scaffolding e.g. observations, measurements, photographs, sketches, inquiries, site plans. See WHSR s306A definitions

Scaffolding – controls while dismantling	
Elements of s306Q(2) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking See WHSR 306Q (1) person must be a PCBU who intends to perform construction work that is the erecting of scaffolding. Note: Section 306Q (3) limits the application of this section	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where construction work is carried out (offence location). Date and time. See WHSA s8

must not dismantle the scaffolding	Identify specific scaffolding that has been dismantled e.g. observations, inquiries, contractual documents. See WHSR sched 19 definitions
or allow another person to dismantle the scaffolding	Identify if another person has been allowed to dismantle the scaffold. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address.
if housing construction work and a person could fall at least 3m in dismantling the scaffolding; OR	Determine if the work is housing construction work and a person could fall at least 3m dismantling the scaffolding e.g. observations, measurements, photographs, sketches, inquiries, site plans. OR See WHSR s306A definitions
if not housing construction work and a person could fall at least 2m in dismantling the scaffolding.	Determine if the work is NOT housing construction work and a person could fall at least 2m dismantling the scaffolding e.g. observations, measurements, photographs, sketches, inquiries, site plans. See WHSR s306A definitions

SWMS – PC to obtain copy	
Elements of s312 of the WHS Regulation	Evidentiary Notes
The principal contractor for a construction project.	Evidence that the person is a principal contractor for the specific construction project. See WHSR s292 and 293 Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address. Site address details (offence location). Date and time.
must take all reasonable steps to obtain a copy of the safe work method statement relating to high risk construction work	Identify specific high risk construction work for which a SWMS is required. See WHSR s291 and 299 Confirm whether the PC has obtained a copy e.g. inquiries. If not, identify if the PC has taken all reasonable steps to obtain a copy e.g. inquiries, documents. Note: The WHS management plan contains arrangements for cooperation between persons conducting a business or undertaking at the construction project workplace, including in relation to the preparation of safe work method statements, see s309(2)(b) and (e).
before the high risk construction work commences.	Confirm when the specific high risk construction work commences.

WHS management plan – kept for relevant period & readily accessible	
Elements of s313(3) of the WHS Regulation	Evidentiary Notes
Person See WHSR 313(1) person must be a principal contractor for a construction project.	Evidence that the person is a principal contractor for the specific construction project. See WHSR s292 and 293 Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address. Site address details (offence location). Date and time.
must ensure that for the period for which the WHS management	Identify the period for which the plan must be kept- ‘until the project to which it relates is completed’. See WHSR s313(1)

plan must be kept under this section,	Confirm that the document kept is the relevant WHS management plan. See WHSR s309
a copy is readily accessible to any person who is to carry out construction work in connection with the construction project.	Identify the location of the WHS management plan. Determine that it is readily accessible to any relevant person e.g. inquiries with subcontractors, workers.

Amenities - maintenance & system (PC)	
Element of s315A(2) of the WHS Regulation	Evidentiary Notes
Principal contractors	Evidence that the person is a principal contractor for construction work. See WHSR s289 and 293 Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address. Site address details (offence location). Date and time.
Must ensure that an amenity provided under schedule 5A	Identify the specific amenity(s) that has been provided by the PC under schedule 5A- e.g. observations, photographs.
is maintained in a hygienic, safe and serviceable condition	Identify how each amenity is not either in a hygienic, safe or serviceable condition- e.g. observations, photographs, statements. OR
including by ensuring that there is a system for: a) inspecting and cleaning the amenity; and b) if the amenity has facilities to dispose of sanitary items for females- the adequate and hygienic disposal of the sanitary items.	Determine if there is no system for inspecting or cleaning the amenity e.g. observations, statements. OR If the amenity has facilities to dispose of sanitary items for females- evidence that there is not adequate and hygienic disposal of the sanitary items e.g. observations, statements.

Falling objects – PC additional controls	
Element of s315F(3) of the WHS Regulation	Evidentiary Notes
Before the work starts Note: Section 315F (1) limits the application of this section	Ensure limitations to the application of this section do not apply. Identify when the construction work started.
the principal contractor	Evidence that the person is a principal contractor for construction work. See WHSR s289 and 293 Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address. Site address details (offence location). Date and time.
must ensure that— (a) if the measured angle is not more than 15°—a barricade or hoarding at least 900mm high that surrounds the structure is	Determine the proposed line and measured angle e.g. inquiries, plans, documents, measurements. See WHSR s315F(2) If the measured angle $\leq 15^\circ$ confirm any barricade or hoarding complies with this section e.g. observations, measurements. See WHSR s315C OR

erected along the proposed line; OR	
(b) if the measured angle is more than 15° but not more than 30°—a hoarding at least 1,800mm high is erected along the proposed line; OR	If the measured angle >15° and ≤30° confirm any hoarding complies with this section e.g. observations, measurements. See WHSR s315C OR
(c) if the measured angle is more than 30° but less than 75°—a hoarding at least 1,800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets is erected along the proposed line; OR	If the measured angle >30° and <75° confirm any hoarding complies with this section e.g. observations, measurements. See WHSR s315C OR
(d) if the measured angle is 75° or more— (i) a hoarding at least 1,800mm high that is fully sheeted with timber, plywood, metal or sturdy synthetic sheets and that is not part of a gantry is erected along the proposed line; or (ii) a gantry is erected under section 315G(3)(a).	If the measured angle ≥75° confirm any hoarding complies with this section e.g. observations, measurements. OR See WHSR s315C Confirm whether any gantry has been erected and determine if it complies with s315G(3)(a). e.g. observations, inquiries, measurements, documents. See WHSR 315C, 315G(3)(a) and 315K

Falling objects – additional controls for PC	
Element of s315G(3) of the WHS Regulation	Evidentiary Notes
Principal contractors Note: Sections 315G (1) and (2) limit the application of this section	Ensure limitations to the application of this section do not apply. Evidence that the person is a principal contractor for construction work. See WHSR s289 and 293 Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address. Site address details (offence location). Date and time
must ensure that at least 1 of the following control measures is used before construction work starts	Identify when the construction work started.
(a) a gantry is erected along the proposed line adjacent to the sides of each part of the structure from which an object could fall; OR	Confirm whether any gantry has been erected adjacent to the relevant sides provides adequate protection and determine if the gantry complies with s315K e.g. observations, inquiries, measurements, documents. AND See WHSR 315C, 315K and 315L(4)

(b) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons; OR	Identify whether the adjoining area has been closed under section 315M to the extent necessary e.g. inquiries, copies of written approvals from the authority or person who controls the area, observations of any measures required by any authorities with control of the area. AND See WHSR s315M
(c) a catch platform with perimeter containment screening complying with section 315I is installed— (i) along the sides of each part of the structure from which an object could fall; AND (ii) not more than 1m below— (A) if the structure has storeys—the storey of the structure from which an object could fall; OR (B) if the structure does not have storeys—the surface from which an object could fall.	Confirm whether any catch platform and its containment screening is installed in compliance with this section and determine if the containment screening complies with s315I e.g. observations, inquiries, measurements, documents. AND See WHSR 315C, 315I and 315D if the containment screening includes mesh.

Falling objects – additional controls for PC	
Element of s315L(3) of the WHS Regulation	Evidentiary Notes
Principal contractors Note: Sections 315L (1) and (2) limit the application of this section	Ensure limitations to the application of this section do not apply. Evidence that the person is a principal contractor for construction work. See WHSR s289 and 293 Correct legal name. ABN or ACN if applicable. Registered address or principal place of business. Not a PO Box or site address. Site address details (offence location). Date and time.
must ensure that, before the work starts—	Identify when the construction work of lifting a load over the adjoining area started.
(a) the adjoining area is closed under section 315M at least to the extent necessary to prevent objects falling on or otherwise hitting persons in the adjoining area; OR	Identify whether the adjoining area has been closed under section 315M to the extent necessary e.g. inquiries, copies of written approvals from the authority or person who controls the area, observations of any measures required by any authorities with control of the area. AND See WHSR s315M
(b) a gantry is erected that provides adequate protection to persons in the adjoining area against falling objects if the load were to fall.	Confirm whether any gantry erected provides adequate protection and determine if the gantry could withstand the force of a falling load e.g. observations, inquiries, measurements, documents See WHSR s 315C, 315K and 315L(4)

General construction induction training	
Elements of s316 of the WHS Regulation	Evidentiary Notes

The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time See WHSA s8
must ensure that general construction induction training is provided	Confirm any training provided is 'general construction induction training' e.g. inquiries with PCBU or workers, certification, training cards See WHSR sched 19 definitions Confirm that there is a register of hazardous chemicals
to a worker engaged by the person who is to carry out construction work,	Identify the specific workers engaged by the PCBU to perform the specific construction work e.g. Inquiries, documents.
if the worker— (a) has not successfully completed general construction induction training; or	Confirm whether specific workers have successfully completed general construction induction training e.g. inquiries, certification, training cards. AND See WHSR sched 19 definitions
(b) successfully completed general construction induction training more than 2 years previously and has not carried out construction work in the preceding 2 years.	Identify whether any general construction induction training was completed more than two years previously AND, for those specific workers whether they have carried out construction work in those two years e.g. inquiries, certification dates, training cards dates.

Hazardous chemical register	
Elements of s346(1) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace Note: Section 346 (4) limits the application of this section	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must ensure that— (a) a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace; AND	Identify specific hazardous chemicals used, handled or stored at the workplace e.g. observations, inquiries. See WHSR sched 19 definitions Confirm that there is a register of hazardous chemicals prepared for and kept at the workplace e.g. document Note: The register must comply with WHSR s346(2).
(b) the register is maintained to ensure the information in the register is up to date.	Confirm the register is maintained to ensure the information is up to date e.g. inquiries, observations.

Hazardous chemical register – readily accessible	
Elements of s346(3) of the WHS Regulation	Evidentiary Notes
The person See WHSR s346(1) the person conducting a business or undertaking at a workplace.	Ensure limitations to the application of this section do not apply.

Note: Section 346 (4) limits the application of this section	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must ensure that the register is readily accessible to — (a) a worker involved in using, handling or storing a hazardous chemical; AND	Identify the location of the register. Confirm that it is readily accessible to: (a) a specific worker(s) involved in using, handling or storing a hazardous chemical; OR Note: The register must comply with WHSR s346(2).
(b) anyone else who is likely to be affected by a hazardous chemical at the workplace.	(b) anyone else who is likely to be affected by a hazardous chemical at the workplace e.g. observations, inquiries.

Asbestos work	
Elements of s419(1) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace Note: Sections 419 (3) , 419(4) and 419(5) limit the application of this section	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time. See WHSA s8
must not carry out, or direct or allow a worker to carry out	Identify whether the PCBU has carried out, directed or allowed a worker to do the work at the offence location e.g. inquiries, observations, documents.
Work involving asbestos	Determine whether the work involves manufacturing, supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or ACM e.g. Observations, inquiries, sampling, testing.

Asbestos register – prepared and kept	
Elements of s425(1) of the WHS Regulation	Evidentiary Notes
The person with management or control of a workplace Note: Section 425 does not apply to a workplace that is domestic premise - see section 421(2). Note: Sections 425 (4) and 425(6) limit the application of this section.	Ensure limitations to the application of this section do not apply. Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s20(1) Site location where work is carried out (offence location). Date and time. See WHSA s8.
Must ensure that a register (an asbestos register) is prepared and	Confirm that there is an asbestos register prepared for and kept at the workplace. See WHSR s425(3).

kept at the workplace.	
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Asbestos or ACM – limit use of equipment	
Elements of s446(1) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time See WHSA s8
must not use, or direct or allow a worker to use, either of the following	Identify whether the PCBU has used, directed or allowed a worker to do the work at the offence location e.g. inquiries, observations, documents.
on asbestos or ACM	Identify the work is done on either asbestos or ACM e.g. sampling, testing, asbestos register.
(a) high-pressure water spray; (b) compressed air.	Confirm the work involves the use of either high-pressure water spray or compressed air e.g. observations, inquiries. Note: WHSR s446 (1)(a) does not apply to the use of a high pressure water spray for fire fighting or fire protection purposes.

Asbestos or ACM – limit use of equipment	
Elements of s446(3) of the WHS Regulation	Evidentiary Notes
The person conducting a business or undertaking at a workplace	Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. See WHSA s5 Site location where work is carried out (offence location). Date and time See WHSA s8
must not use, or direct or allow a worker to use, any of the following equipment: (a) power tools; (b) brooms; (c) any other implements that cause the release of airborne asbestos into the atmosphere.	Identify whether the PCBU has used, directed or allowed a worker to use any of the specified equipment e.g. inquiries, observations, documents.
on asbestos or ACM	Identify the work is done on either asbestos or ACM e.g. sampling, testing, asbestos register.
unless the use of the equipment is controlled	Identify if the use of the equipment is controlled e.g. inquiries, observations, design documents. See WHSR s446(4)

Asbestos – copy of asbestos register prior to demolition or refurbishment	
Elements of s449 of the WHS Regulation	Evidentiary Notes

<p>The person with management or control of a workplace</p>	<p>Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. <small>See WHSA s20(1)</small> Site location where work is carried out (offence location). Date and time <small>See WHSA s8.</small></p>
<p>Must ensure that the person conducting a business or undertaking who carries out the demolition or refurbishment</p>	<p>Identify the PCBU carrying out the specific demolition OR refurbishment. <small>See WHSR s447</small> Correct legal name. ABN or ACN if applicable. Registered address or Principal place of business. Not a PO Box or site address. <small>See WHSA s5</small></p>
<p>is given a copy of the asbestos register</p>	<p>Identify the asbestos register for the site and when it was given to the PCBU undertaking the demolition or refurbishment. e.g. copy of register, correspondence , statements. <small>See WHSR s425</small></p>
<p>before the demolition or refurbishment is commenced.</p>	<p>Identify when the demolition or refurbishment commenced.</p>