



Form 73A – Notice of WHS dispute


INDUSTRIAL REGISTRAR

30 SEP 2024


QUEENSLAND


Work Health and Safety Act 2011, s 102B

Information

- Use this form to notify of a WHS dispute.
- Once filed, this notice must be **immediately** served on all other parties to the dispute.
- **This Notice will be published on the QIRC website pursuant to s 102B(3) of the Work Health and Safety Act 2011.**
- If a relevant union for a worker affected by the WHS matter not already named as a party wish to participate in the resolution of the dispute, they may notify the Industrial Registrar in writing.
- Please read this form carefully and complete all relevant sections.
- Documents which are longer than 30 pages in length must be provided to the Industrial Registry in hard copy before it will be accepted for filing.
- For further information on please refer to the website www.qirc.qld.gov.au or contact the Industrial Registry on 1300 592 987 or via email at qirc.registry@qirc.qld.gov.au.

Notification

Notice is hereby given of a dispute in accordance with s 102B of the *Work Health and Safety Act 2011*.

Has a *Form 74 – Application for WHS review* been filed in relation to the matter/s in dispute? No Yes [Matter No. WHS/____/____]

Notifier	The Australian Workers' Union
-----------------	-------------------------------

AND

Respondent	Cement Australia Pty Limited T/A Cement Australia
-------------------	---

If there are more parties to the WHS dispute, please complete a **Form 1 – Parties List** and file it together with this form.

1. Particulars of the party notifying of the dispute

Name:	The Australian Workers' Union		
Postal/Service address:	Level 13, 333 Adelaide Street		
	Suburb/Town	Brisbane	Postcode 4000
Phone number:		Mobile number:	0447 332 934
Email address:	aaron.santelises@awu.org.au		
Name of contact person:	Aaron Santelises		
Direct phone number:		Mobile number:	As above.
Direct email address:	As above.		

2. Particulars of the other party to the dispute			
Name:	Cement Australia Pty Limited		
Postal/Service address:	PO Box 36		
	Suburb/Town	Mount Larcom	Postcode 4695
Phone number:		Mobile number:	
Email address:	ben.gill@cementaust.com.au		
Name of contact person:	Mr Ben Gill		
Direct phone number:		Mobile number:	0417 340 611
Direct email address:	As above.		

3. Workplace where dispute exists

4. WHS matter subject of the dispute	
This dispute (as defined in s 102A of the Work Health and Safety Act 2011) is in relation to: [Please pick one or more of the options below]	
<input type="checkbox"/>	A work group determination matter.
<input type="checkbox"/>	A work group variation matter.
<input type="checkbox"/>	Access to information by a health and safety representative under s 70(1)(c) of the Act.
<input type="checkbox"/>	The giving of a notice or information to a health and safety representative under s 70(1)(cb) or (cc) of the Act.
<input type="checkbox"/>	A request by a health and safety representative for a person assisting the representative to have access to the workplace under s 70(1)(g) of the Act.
<input type="checkbox"/>	A matter mentioned in s 72(2)(aa), (a) or (b), or s 72(4)(a), (b) or (c) of the Act relating to training for a health and safety representative.
<input type="checkbox"/>	A health and safety committee matter.
<input checked="" type="checkbox"/>	A matter about work health and safety that is an issue to which Part 5, Division 5 (Issue Resolution) of the Act applies.
<input type="checkbox"/>	An issue about cessation of work under Part 5, Division 6 (Right to cease or direct cessation of unsafe work) of the Act.
Does this dispute relate to any of the following decisions made by an Inspector?	
<input type="checkbox"/>	s 54(5) – Negotiations regarding an agreement
<input type="checkbox"/>	s 76(6B) – Regarding a health and safety committee

5. Compliance powers	
Has an inspector been appointed to assist the parties reach an agreement or resolve the dispute?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, was a decision made by an inspector to exercise, or not to exercise, compliance powers under Part 10 of the Act subject to review under Part 12 of the Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No

6. Issues in dispute

Please outline the issues in dispute between the parties:

[Please note that any details you provide will be published as part of this Notice]

Please attach a schedule if more room required

Please see Attachment One.

7. Briefly state the relevant industrial instrument/s affected (e.g. award, agreement, determination) OR the industry in which the dispute arose and/or type of work being undertaken by those in dispute

Cement Australia Gladstone Union Collective Agreement 2022

8. Signature of the party notifying of the WHS dispute

Signature:	
Name:	Stacey Schinnerl
Position/Capacity:	Queensland Branch Secretary
Date:	30 September 2024

ATTACHMENT ONE

1.BACKGROUND

1. The events occurred on 23 September 2024, in particular it commenced with Notifier's member meeting in the crib room from 12pm.
2. During the said meeting, the Notifier's members advised Mr Craig Sell, Central District Secretary of the Notifier and Mr Kris Adam's Organiser of the Notifier, of a contravention in relation train unloading operations ie extreme exposure to dust from limestone and coal unloading operations.
3. At approximately, 12:45pm, Mr Adams notified the Respondent's Human Resources officer named Natasha ('**Respondent**') in relation exercising a section 117 of the *Work Health and Safety Act 2011* (Cth) entry to inspect a contravention. In response, the Respondent requested if they do it 'another day'. In response, Mr Adams responded that we would be conducting the inspection today.
4. Thereafter, the Respondent requested if the Notifier had an entry notice to provide. In response, Mr Adams stated that they would receive an entry notice as soon as practicable.
5. In response, the Respondent advised that the Notifier could not inspect as we don't have an entry notice. In response, Mr Adams asked if they were going to permit or prevent their access and requests a yes or no answer
6. Approximately 20 minutes to 30 minutes later the Respondent said that we can come to the admin office to meet Mr Ben Gill office to talk about it. The Notifier's officials went to a where Mr Gill questioned validity of permits as he could not find us on the register.
7. In response, Mr Adams produced general entry permit (he does not possess H&S permit) and Mr Sell produced a Health and Safety permit and Mr Sell said to Mr Adams he could stay and I would go and conduct the investigation. In response, Mr Gill said that Mr Sell would have to go through their safety protocols and complete a job planning document.
8. In response, Mr Sell agreed to the procedural on the condition that it did not unduly delay the process. Mr Gill said that it was 'pretty quick'.
9. Mr Sell and Mr Adams went into the meeting room with their Health and Safety Officer (named Ms Kelly Seymour) to complete the paperwork. Ms Seymour appeared to able

to not find the required documents and came in and out of the room several times. Ms Seymour was finally able to find and print the required document after 10-15 minutes.

10. After completing the paperwork, Ms Seymour went to get the other individuals required to sign onto to do so. Additionally, Ms Seymour came back and asked if Mr Sell had a card to verify if Mr Sell had been face fitted for a face mask and presented a card.
11. In response, Mr Sell said no and that he did not believe that would be necessary to conduct the inspection. In turn, Ms Seymour left the room and came back and said that they could only proceed if Mr Sell do not exit the vehicle which would be used to go to the train unloading shed.
12. Mr Sell then said to the Respondent that they would not allow him appropriate access to inspect the contravention.
13. In turn, the Notifier's officials and the Respondent then congregated in the hall where the Respondent attempted to explain that due to their site requirements, Mr Sell could not leave the vehicle and would have to conduct his inspection from the vehicle. They remained adamant that the Notifier could conduct an inspection from the vehicle.
14. Additionally, Mr Gill showed a site photo to indicate where Mr Sell could view the train unloading while inside the vehicle. Mr Sell was not convinced that he would be able to and maintained that was not going to be appropriate.
15. Mr Sell said that they were done as the Respondent was attempting to prevent him from conducting my inspection and proceeded to leave with Mr Adams. Some further debate ensued as to who is right and who is wrong.
16. The Notifier then left site at approximately 2pm.
17. At 4:30pm, Mr Sell submitted a 117 Entry Notice. It is attached and marked as **AWU-01**.
18. On 24 September 2024, the Respondent sent correspondence to Mr Sell. The correspondence is attached and marked as **AWU-02**.
19. On 25 September 2024, the Notifier sent correspondence to the Respondent. The correspondence is contained in the correspondence attached and marked as **AWU-02**.

2.ISSUE

20. The Notifier submits that the issue with this matter is the Respondent's non-compliance with the Act and permitting the said Organisers of the Notifier access to the site in question.
21. In particular, the Notifier submits that they have been prevented from conducting an inspection under a 117 Entry Notice. The Notifier believes that the Respondent has breached sections 128 (2) of the Act.
22. Section 128 of the Act provides the following:

128 Work health and safety requirements

(1) A WHS entry permit holder must not exercise a right of entry to a workplace under division 2 or 3 unless he or she complies with any reasonable request by the relevant person conducting a business or undertaking or the person with management or control of the workplace to comply with—

(a) any work health and safety requirement that applies to the workplace; and

(b) any other legislated requirement that applies to that type of workplace.

(2) A request to comply with a work health and safety requirement under subsection (1)(a) is not reasonable if complying with the request would unduly delay or unreasonably prevent or hinder the WHS entry permit holder exercising a right of entry to a workplace under division 2 or 3.

3.REMEDY

23. The Notifier submits and requests that the Respondent's conduct is rectified regarding entry to areas of suspected contravention, and that the Notifier's official is permitted access to the site outlined above.