

**Form 73A – Notice of WHS dispute**

INDUSTRIAL REGISTRAR

09 SEP 2025

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.

NotificationNotice 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**

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

AND

Respondent

UGL Rail Services Pty Limited

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:	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia		
Postal/Service address:	41 Peel Street		
	Suburb/Town	South Brisbane QLD	Postcode 4101
Phone number:	(07) 3846 2477	Mobile number:	
Email address:	info@etu.org.au		
Name of contact person:	Chris Lynch		
Direct phone number:		Mobile number:	0407 510 329
Direct email address:	chris@etu.org.au		

2. Particulars of the other party to the dispute			
Name:	UGL Rail Services Pty Limited		
Postal/Service address:	Level 6, 199 Grey Street		
	Suburb/Town	South Brisbane QLD	Postcode 4101
Phone number:		Mobile number:	
Email address:	christopher.newitt@ugllimited.com		
Name of contact person:	Christopher Newitt		
Direct phone number:	0437334513	Mobile number:	0437334513
Direct email address:	christopher.newitt@ugllimited.com		

3. Workplace where dispute exists
Cross River Rail Project

4. WHS matter subject of the dispute	
This dispute (as defined in s 102A of the <i>Work Health and Safety Act 2011</i>) 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 checked="" 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

See Annexure A

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

UGL Rail Services Pty Limited and CEPU Electrical Division Queensland Cross River Rail Project Enterprise Agreement 2025-2027

8. Signature of the party notifying of the WHS dispute

Signature:	
Name:	Luke Tiley of Hall Payne Lawyers
Position/Capacity:	Solicitors for the Notifier
Date:	09/09/2025

ANNEXURE A

1. The **Respondent** is an occupier of the Cross River Rail **Project** and a PCBU within the meaning of the *Work Health and Safety Act 2011 (Qld)* (**WHS Act**).
2. There are persons employed or engaged to work at the Project who are **members** of the **Notifier** (in respect of the Queensland and Northern Territory Branch of the Electrical Division), including employees of the Respondent.
3. The Notifier is a representative of members that are affected by a health and safety **issue** and is therefore a party, pursuant to s.80(1)(e) of the WHS Act, to the issue.
4. The issue is the suspected presence of asbestos dust at the Project. The suspicion arises from the presence at the Project, at the Woolloongabba Site, of fire doors supplied by Firemex. Firemex admitted in writing on 19 August 2025 that these fire doors contain asbestos.
5. The issue first arose at the Project on 26 August 2025 and has been ongoing ever since. Throughout this period the Members have attended for work and been available to perform any work that is safe, however have been unable to work in areas affected by the issue.

WHS Act and WHS Regulations

6. The Respondent is required to comply with the WHS Act and the *Work Health and Safety Regulations 2011 (Qld)* (**WHS Regulations**).

Sample analysis

7. Pursuant to r.422(1) and (2) of the WHS Regulations and section 2.3 of the *How To Manage And Control Asbestos In The Workplace Code Of Practice 2021*, if the presence of asbestos dust is suspected at a workplace, the PCBU should initially assume that the dust is asbestos and proceed accordingly.
8. Pursuant to r.422(3), r.422(1) and (2) do not apply if the PCBU has reasonable grounds to believe that asbestos is not present. The Notifier contends that this state of satisfaction can only be achieved by the PCBU conducting analysis of a sample of the suspected asbestos dust, pursuant to r.423.
9. Clause 2.3 of the Respondent's own Asbestos Management Plan (revision 0 dated 19 August 2020) is consistent with the two previous paragraphs. It provides (ACM means Asbestos Containing Material):

2.3 Unexpected Finds Protocol

If any material is suspected of containing ACM, the area should be barricaded off and the relevant Supervisor and site Safety and Health Lead notified. A competent person must be organised to undertake sampling to confirm ACM presence. Where not possible, all suspected shall be treated as ACM and where required removed in accordance with this AMP.

Suspected ACM shall be treated as ACM until proven otherwise via testing. The Environment team must also be notified when required to ensure compliance with the Project's environmental obligations.

Removal

10. Appendix E of the *How To Safely Remove Asbestos Code Of Practice 2021* relevantly provides:

Some fire doors contained loose asbestos insulation sandwiched between the wooden or metal facings to give them the appropriate fire rating. Loose asbestos was also packed around electrical cables, sometimes using chicken wire to contain it.

...

It will depend on where the fire retardant material is located and the quantity of the material as to how the removal process is conducted. However, the asbestos is friable and a Class A licensed asbestos removalist must perform the asbestos removal work.

The Issue

11. The Respondent has consistently sought to refute the concern of the members and the Notifier by reference to testing said to have been undertaken of air samples from the affected areas of the workplace. However, there is no suggestion that the Respondent has ever taken any steps to conduct analysis of a sample of the suspected dust, as required by r.423 and its own Asbestos Management Plan.
12. Further, the Respondent has not caused a Class A licensed asbestos removalist to perform asbestos removal work as contemplated by Appendix E of the *How To Safely Remove Asbestos Code Of Practice 2021*.
13. Notwithstanding the Respondent's refutation of the issue and assertion that no asbestos is present, it has labelled the fire doors in question (after they were drilled into) with stickers that say "*This material may contain asbestos. Do not cut, grind or drill this door without authorisation*". These stickers remain in place.

Notifier's engagement with the Regulator

14. The Notifier first sought the assistance of the Regulator in relation to the issue on 5 September 2025. The Notifier discussed the issue with Inspector Jade Young - together with an issue relating to right of entry under the WHS Act - but the issue was not resolved.
15. On 9 September 2025 the Notifier again sought the assistance of the Regulator, but none was provided.
16. Later on 9 September 2025 the Notifier received an email from the Regulator in relation to the issue which asserted, by reference to events on 28 and 29 August 2025, "*the issue is now resolved*". The Notifier was not party to the discussions that occurred on 28 and 29 August 2025 and does not consider the issue to be resolved.

Conclusion

17. The Respondent is in breach of the WHS Act, the WHS Regs, the codes of practice mentioned above and its own Asbestos Management Plan.
18. The Notifier contends that the Respondent must:
 - a. immediately either:
 - i. conduct sample analysis pursuant to reg 423; or alternatively
 - ii. cause a Class A licensed asbestos removalist to perform asbestos removal work pursuant to the *How To Safely Remove Asbestos Code Of Practice 2021*; and
 - b. pay the Members their usual income for the period from 26 August 2025 to date.
19. The Notifier seeks the urgent assistance of the Commission.