



ACT
Government

WORKSAFEACT

**Work Health and Safety Act 2011 (WHS Act) –
Work Health and Safety Regulation 2011 (WHS Regulation)**

Enforceable undertaking

Undertaking to – WorkSafe ACT - given for the purposes of part 11 of the *Work Health and Safety Act 2011 (WHS Act)*.

Section 216.

By: AGH DEMOLITION AND ASBESTOS REMOVAL PTY LTD (AGH)

ACN 133 706 822

Privacy statement

WorkSafe ACT respects your privacy and is committed to protecting personal information. The information provided on this document is for the purpose of making an undertaking to the WorkSafe ACT given for the purposes of part 11 of the WHS Act. This information will be managed within the requirements of the current ACT government privacy policy.

The department may publish the undertaking and the information contained in it for purposes identified in the undertaking or for other appropriate legal purposes in various publications such as newspapers and on its website. The department may be required to disclose personal information to other regulatory agencies in accordance with other law enforcement activities which may be conducted as part of an investigation. Further information on our privacy policy can be found at <http://www.cmtedd.act.gov.au/legal/privacy>.

SECTION 1 - GENERAL INFORMATION

a. Details of the person proposing the undertaking

Residential address:	16 Ballard Place, Monash,ACT 2904
Postal address (if different from residential address):	10/8 Ogilvie Cres Queanbeyan NSW 2620
Telephone contact number:	+61 2 62990323
Mobile contact number:	
Email address:	lorraine@agh.com.au
Legal structure:	Limited Liability Company
Type of business:	Demolition and Asbestos removal/Construction
Commencement date of the entity:	14 th October 2019
Number of workers: (Full Time / Part Time)	40
Products and Services:	Management& Remediation of Hazardous Material Demolition
Comments:	

b. Details of the alleged contravention

It is alleged by WorkSafe ACT that on 13th February 2018 AGH Demolition removal Pty Ltd 133 706 822 had a duty to health and safety as a business which it failed to discharge, failing to comply with *Part 2 Division 2 (S19) of the Work Health & Safety Act 2011*.

c. Details of the events surrounding the alleged contravention, e.g. incident details

The injured worker was a working as part of a team at Northbourne Flats (Turner) in the Australian Capital Territory. The principle contractor of the site was the ACT Government. At the time of the incident, the worker was operating a skid steer when a piece of timber entered the cab and pierced the underside of his left thigh whilst he was attempting to pick it up and load it into a skip bin.

d. An acknowledgement that WorkSafe ACT alleged a contravention has occurred

It is acknowledged that WorkSafe ACT has alleged that AGH has contravened *Part 2 (S19) of the Work Health and Safety Act 2011*.

e. The details of any injury that arose from the alleged contravention

The injured worker sustained a cut to the underside of his left thigh requiring hospitalization and medical care

f. The details of any enforcement notices issued that relate to the alleged contravention:

Notices received:

Yes (provide details)

No



g. A statement of assurance about future work health and safety behaviour

AGH is committed to complying with its obligations under the *Work Health and Safety Act 2011* and ensuring, so far as reasonably practicable, the health and safety of all workers and those who may be affected by its business and undertakings. AGH will, so far as reasonably practicable, provide and maintain a safe and healthy workplace for its workers and other stakeholders.

When an alleged contravention is associated with an injury/illness

h. The details of the type of workers compensation provided (if the injured person(s) is a worker of the person)

All medical costs including hospital, physio and pain relief were covered by the insurer (GIO). Income was covered by the same insurer during the time lost. AGH's Rehabilitation Coordinator liaised with Pro Care Rehabilitation to support the workers smooth transition back to work.

The details of the support provided, and proposed to be provided, to the injured person(s) to overcome the injury/illness

Does the contravention involve injury to person?

Yes

No

The injured person is an employee of Hazi Hire Pty Ltd. AGH engages Hazi Hire for all plant and equipment required on each project.

Hospital Visits whilst worker was in hospital
Phone calls to family
Counselling

i. If the matter involves a fatality or very serious injury, a claim to demonstrate that exceptional circumstances exist that the enforceable undertaking is a more appropriate response than pursuing prosecution

TBA

Does the contravention involve a fatality or very serious injury?

Yes

No

j. The details of any existing occupational health and safety management system at the workplace including the level of auditing currently undertaken

The AGH Work Health and Safety forms part of the company's integrated Management System which has achieved third party certification for compliance against the relevant standards. AGH has demonstrated ability in proactive management of WHS aspects. The system is followed during day to day operations as well as for the execution of projects and has been subjected to regular audits particularly whilst undertaking work for the local, state and federal government. The most recent audit completed was 12th September 2019 for certification purposes.

k. The details of any consultation undertaken within the workplace regarding the proposal of an enforceable undertaking

Consultation has occurred between the management team, compliance officer, a site supervisor, plant operator, labourer and office staff.

l. A statement of regret that the incident occurred (i.e. not an admission of guilt)

AGH regrets the incident, occurring on 13/02/2019, which resulted in the injury of a worker. The AGH management team and employees care deeply about the safety of all workers and sincerely regret the impact the alleged contravention has had on the worker and his family. AGH acknowledges the seriousness of the incident and is committed to ensuring, as far as is reasonably practicable, the health and safety of its workers and stakeholders.

m. Any rectifications made as a result of the contravention

New plant which has smaller engine capacity and enclosed cabin.

The use of different plant to undertake this work activity. Additional attachments purchased to allow this to occur (mechanical grabs)

Total amount spent on rectifications **\$95,000**

n. An acknowledgement that the enforceable undertaking may be published and publicised

AGH acknowledges that the undertaking may be published on WorkSafe ACT's website and may be referenced in its publications.

o. A statement of ability to comply with the terms of the enforceable undertaking

AGH can comply with the terms of this enforceable undertaking. Whilst the industry is currently experiencing a downturn which is reflected in the year to date financials, AGH is committed to complying with the undertaking.

p. Statement regarding relationships with beneficiaries

AGH acknowledges there are no known current relationships with any of the beneficiaries articulated in the proposed enforceable undertaking, other than the current employees of AGH.

q. Intellectual property licence

AGH grants WorkSafe ACT a permanent, irrevocable, royalty free, worldwide, non-exclusive license to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking.

r. The person may be required to provide a statutory declaration

Brett Gibson.

s. Acknowledgement of enforceable undertakings overview and guidelines

AGH has read and understood the *Enforceable Undertakings Overview* as outlined by WorkSafe ACT, provided on the Access Canberra website.

SECTION 2 – ENFORCEABLE TERMS

A. A commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

AGH can confirm that the conduct that led to the contravention has ceased. In implementing the required rectifications, AGH will continue to take all reasonably practicable steps to prevent the recurrence of this kind of incident

B. A commitment to the ongoing effective management of work health and safety risks

AGH is committed to taking all practicable measures to ensure the ongoing effective management of work health and safety risks.

C. A commitment to disseminate information about the undertaking to workers, and other relevant parties (which may include work health and safety representatives), and in the annual report (if applicable)

Whilst AGH is not required to prepare an annual report we will commit to ensuring the information in relation to the undertaking is communicated to workers and our work, health and safety representatives. This information will be delivered via team meetings and toolbox talks.

D. A commitment to participate constructively in all compliance monitoring activities of the undertaking

AGH recognises its responsibility to ensure compliance monitoring and commits to undertaking these activities in a cooperative and constructive manner.

Evidence demonstrating compliance with the terms of the undertaking will be retained by AGH until advised by WorkSafe ACT, that the undertaking has been completely discharged.

STRATEGIES THAT WILL DELIVER BENEFIT TO WORKERS, INDUSTRY AND THE COMMUNITY.

E. STRATEGIES THAT WILL DELIVER WORKER BENEFITS

Strategy 1: WHS Training

Estimated Cost: \$40,000

Scope

AGH has identified courses offered by the MBA which will extend the WHS knowledge of key personnel including the Compliance Officer, SEQ Manager and Site Supervisors. Courses identified and the staff members who will attend are as follows:

Course	Attendee
Certificate IV in WHS	Wayne Brownlie (Compliance Officer)

	Lorraine Tsipiras (Executive Officer)
Contribute to WHS Hazard Identification, Risk Assessment & Risk Control	Bunly Kong (Asbestos Removalist) Touen Tuy (Asbestos Removalist)
Silica Awareness	Wayne Brownlie (Compliance Officer) Lorraine Tsipiras (Executive Officer)
Asbestos Supervisor	Bunly Kong (Asbestos Removalist) Touen Tuy (Asbestos Removalist)
Chain of Responsibility	Jack Gibson (Scheduler) Kylie McKay (Asset Manager) Lorraine Tsipiras (Executive Officer)

Tangible Outcome

The staff identified for the training provide leadership and guidance to others and have a responsibility for their output. The additional training will reinforce the importance of safety and provide further knowledge regarding processes relating to identifying, understanding and eliminating risks within the workplace. As a company, AGH would like to increase the benchmark as a business that values employee training and development as well as meeting its legislative responsibilities regarding WHS.

Beneficiaries / audience

All AGH staff will benefit from the training as the additional safety knowledge is communicated and practised. The benefits will extend to their families, the client, other contractors and the community. Achieving the company objective of zero injuries in the workplace will also ensure that workers compensation claims and costs are minimised.

Delivery method

MBA or other local registered training authority to provide the training identified.

Timeframe

12 months

Safety Outcome

The increase in knowledge will support the recipients of the training in reducing the incidence of accidents and injuries on site. The training will provide confidence in communicating and implementing risk management measures including appropriate mitigation strategies to ensure work health and safety is maintained.

Total amount to be spent on benefits to workers

\$40,000

F. STRATEGIES THAT WILL DELIVER INDUSTRY BENEFITS

Strategy 1: Provide the Canberra Institute of Technology (CIT) with powered plant (1.7 tonne excavator) to be utilised for training of students

Estimated Cost: \$40,000

Scope

CIT currently has limited scope for excavator training, making it difficult for small businesses in the ACT to obtain this training for their staff locally. Although CIT does provide some training, it is difficult for students to enter the workplace as experienced operators without plant to practice on. As a result, having access to a cost-effective, competent training program with the required equipment is important for maintaining safety within the industry.

To address this need, AGH will work with CIT to donate an excavator for use by students during their training, by covering the cost of purchase for a brand-new excavator. This donation is particularly pertinent and important to AGH due to the nature of the accident on our site.

Tangible Outcome

- Trainees will have access to this equipment as part of their local training
- Construction and demolition industry are strengthened by the additional training
- Providing this additional resource to trainers at the CIT furthers opportunities for a local registered training organisation
- Local economy benefits from the provision of the adequate training locally, as opposed to costlier training interstate

Beneficiaries / audience

Local industry
Local construction/demolition businesses and their employees
CIT
Local economy

Delivery method

AGH will source and arrange delivery of the excavator to the CIT

Timeframe

Within 3 months of acceptance of the Enforceable Undertaking

Safety Outcome

The experience and knowledge gained from using the powered plant under the guidance of competent CIT training providers

Total amount to be spent on benefits to industry

\$40,000

G STRATEGIES THAT WILL DELIVER COMMUNITY BENEFITS

Strategy 7: Donation to *The Black Dog Institute*

Estimated Cost: \$10,000.00

Scope

The *Black Dog Institute* is a charitable organisation focussing on understanding, preventing and treating mental illness. The donation AGH makes to this charity will contribute to mental health research, awareness, and direct interventions carried out by *The Black Dog Institute*.

Tangible Outcome

A cash donation of \$5,000 per year over two years

Beneficiaries / audience

The Black Dog Institute operates Australia wide, providing free services online. Anyone experiencing poor mental health, or who knows someone with poor mental health, can access these services and benefit from the donation provided by AGH.

Delivery method

A cash donation of \$5,000 per year over two years

Timeframe

2 years

Safety Outcome

Both mental and physical health are an important part of work health and safety. The *Black Dog Institute* is currently working to develop effective and evidence-based programs to support and improve mental health outcomes.

Total amount to be spent on benefits to the community

\$10,000

Total cost of the strategies proposed (e-g)

Total amount to be spent on strategies

\$90,000

H A commitment regarding linking the promotion of benefits to the enforceable undertaking

AGH is committed to ensuring any promotion of a benefit arising from this undertaking is linked to this undertaking and acknowledges that this undertaking was entered into as the result of an alleged contravention of the WHS Act.

I A commitment to establish and maintain (or maintain if a system already exists) an occupational health and safety management system (OHSMS)

AGH is committed to ensuring its current safety management system is maintained and enforced

J A commitment to ensure the OHSMS is audited by third party auditors

AGH will continue to ensure the current work health and safety system is audited by third party auditors. This includes the surveillance audit which is undertaken annually as part of our certification requirements. ACT Government contracts also require active certification audits to be undertaken.

K A commitment to provide a copy of each finalised OHSMS audit report to WorkSafe ACT

AGH acknowledges that audit reports received from the auditor will be made available to WorkSafe ACT within 30 days of receiving the audit report, including a letter certifying the report has not been altered from that provided by the auditor. This will be accompanied by a statement of the intended actions to close out any recommendations made by the auditor

L A commitment to implement the recommendations from these audits (unless otherwise negotiated with WorkSafe ACT)

AGH commits to ensuring the implementation of reasonable and practicable recommendations resulting from any audit

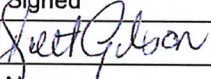
undertaken, unless otherwise agreed with WorkSafe ACT.

M Timeframe

AGH is committed to the enforceable undertaking and aims to have completed all undertakings within 2 years of its acceptance.

SECTION 3 – OFFER OF UNDERTAKING

I offer this undertaking and commit to the terms herein.

Signed

Name
BRETT GIBSON
Position
DIRECTOR

Dated at Queanbeyan this 22nd
(suburb)
day of July 20 20

OR

As a duly authorised person of

I offer this undertaking and commit to the terms herein.

Signed (duly authorised person)

Name


Position

Dated at this
(suburb)
day of 20

SECTION 4 – WORKSAFE ACT'S ACCEPTANCE OF UNDERTAKING

The duration of an enforceable undertaking is determined by the content of the agreed terms. An enforceable undertaking commences and is enforceable once accepted by WorkSafe ACT. The enforceable undertaking will be concluded on written advice from WorkSafe ACT when all requirements of the undertaking have been satisfactorily executed.

I accept this undertaking as an enforceable undertaking under section 216 of the WHS Act.

Signed


Name
Daniel Curtin

Position
Senior Director

Dated at Dickson this 27th

Work Safe ACT

day of July 20 20