



Access  
Canberra.

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

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Enforceable undertaking

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

Section 216.

by **Milin Builders Pty Ltd ACN 145 495 067**

#### **Privacy statement**

Access Canberra 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 Access Canberra 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.cmd.act.gov.au/legal/privacy>.

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b. Details of the alleged contravention

It is alleged by Access Canberra (WorkSafe Act) that on Friday 12 May 2017 at approximately 12.55 pm, at the Indigo Project Site, Block 13 Section 25, Griffith, Canberra in the ACT (the Indigo Site), Milin Builders failed to discharge its statutory obligation as a person conducting an undertaking or business pursuant to section 19 of the Work Health and Safety Act 2011 (ACT) (the WHS Act) so far as reasonably practicable and thereby exposed an individual to a risk of serious injury (Section 32 of the WHS Act – Category 2).

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

The injured worker was employed as a licenced dogman and was also a company Safety Officer from 15 May 2015. He has undergone ACT WHS Constructions Induction (Issued 27 May 2015) and holds a High Risk Work Licence (HRWL)No. HR111652.

On Friday 12 May 2017 (the date of incident) at the Indigo Site, five Milin Builder workers were removing large screens from a building under construction using a mobile non-slewing crane (the telehandler). The screens were of variable size, approximately 8m x 4m and weighing approximately 500 kg.

The telehandler was being operated by a ticketed crane driver who holds a HRWL.

The injured worker attached chains to a screen and another employee working under his supervision attached the chains to a hook which was attached to the telehandler. The crane driver then lifted the screen and at a point adjacent to the site security fence one of the chains attached to the telehandler hook dropped off causing the screen to fall onto the injured worker and pin him on the ground.

The incident occurred as a result of insufficient site management controls, inappropriate lifting mechanism, inadequate engineering and planning for the lift.

d. An acknowledgement that Access Canberra alleged a contravention has occurred

It is acknowledged by Milin Builders Pty Ltd that Access Canberra has alleged that Milin Builders Pty Ltd has contravened section 19 of the WHS Act.

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

The injured worker suffered musculoskeletal injuries to the chest, thoracic spine and left hip. He was immediately transferred to Canberra Hospital but discharged on the following day. He was subsequently unfit for work until 31 May 2017 when he was certified fit for suitable duties on reduced hours increasing to normal hours from 23 August 2017. He is now performing full time selected duties which continue to be provided with a view to achieving full capacity for normal duties.

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

Notices received:

X Yes (provide details)		No		
Date Issued	Notice type	Notice number	Contraven tion	Action taken in response to notice
12 May 2017	Non-disturbance	05771-170512-001315-01	N/A	N/A

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From 12 May to August 2017	Proactive involvement in workers' compensation rehabilitation with GIO including regular attendances upon with Ms. Erin Grocott of Rehabilitation Services (appointed by GIO) and participation in Recover at Work Plans	Ting Fan - Financial Controller
31 May 2017 to 23 August 2017	Participation in return to work through provision of suitable duties and hours of work in accordance with NTD medical certification	Ting Fan - Financial Controller
From 12 May 2017 to August 2017	Attended to all workers' compensation entitlements with respect to lost time and treatment	Ting Fan - Financial Controller

i. If the matter involves a fatality or very serious injury<sup>1</sup>, a claim to demonstrate that exceptional circumstances exist that the enforceable undertaking is a more appropriate response than pursuing prosecution

Does the contravention involve a fatality or very serious injury<sup>1</sup>?

Yes  No

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

Milin Building has in place an existing Work Health and Safety management system which is compliant with AS/NZS 4801:2001. The system is audited internally and externally annually. It was last externally audited on [?] and is next due to be audited on[?]. It is audited internally on a continuous basis. TBP

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

Milin Builders has commenced a consultation process within the management and key personnel including the injured worker, who is the Safety Officer, in relation to the proposal for an enforceable undertaking. This includes what an EU is, what it means and how it works. Milin Builders has sought their views and feedback on the implications of an EU. A WHS manager has been employed and will oversee, manage this process and report back to the Directors. TBP

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

Milin Builders, its directors, officers, managers and employees, sincerely regret the incident on 12 May 2017, as well as the injuries to our worker, the impact upon his wellbeing and his family, the impact upon our business and the implications of breaching our statutory duty and process of regulatory scrutiny. Milin Builders takes work health and safety very seriously and is deeply concerned to ensure the wellbeing of its workers. All possible steps have been taken to restore the injured worker and to ensure that, so far as practicable, the health and safety of all workers and persons affected by the workplace. Significant improvements have been undertaken following this incident for the benefit of all in the workplace

m. Any rectifications made as a result of the contravention

Rectifications
Replacement of equipment (chains, hook, etc.)
Review of record keeping processes (e.g. chain certification)

<sup>1</sup> 1. An injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation of a limb or parts of the body, for example, amputation above the knee or elbow. This term is not defined in the WHS Act; it is used within this document to identify certain circumstances which will trigger additional steps in the enforceable undertaking process.

s. Acknowledgement of enforceable undertakings overview and guidelines

Milin Builders has read and understood "Enforceable Undertakings – An Overview – Guidelines for proposing an enforceable undertaking as listed 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

Milin Builders commits that the behaviour that led to the contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence of this type of incident.

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

Milin Builders here by provides a commitment that it will exercise its best endeavours to 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)

Milin Builders hereby provides a commitment to disseminate information about the enforceable undertaking within its workplace, including to any members of the Health and Safety Committees, Health and Safety Representatives, workers and any other relevant parties.

This information will be disseminated through management meetings, staff meetings, leadership meetings, Work Health and Safety Committee meetings, toolbox talks and will published details of the Enforceable Undertaking within two (2) months of it taking effect.

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

Milin Builders acknowledges commits to participate constructively in all monitoring and compliance activities of the undertaking. It is acknowledged that the responsibility for demonstrating compliance with this undertaking rests with Milin Builders and the person who gives the undertaking on Milin Builders behalf. Milin Builders will provide evidence demonstrating compliance to Access Canberra by the due date.

Milin acknowledges that access Canberra inspectors may undertake other compliance monitoring activities to verify the evidence provided and compliance with the terms and will cooperate with Access Canberra. The evidence provided to demonstrate compliance with the undertaking will be retained by the person who has given the undertaking until advised by Access Canberra that the undertaking has been completely discharged.

It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to alternative enforcement action.

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report directly to the construction manager and the directors on all aspects of work health and safety compliance including due diligence. The work health and safety manager's job description will oversee work health and safety systems across the company and will be supported and assisted by the safety officer and thereby provide increased resources to enable Millin Builders to better manage and improve work safety practices and work safety culture.

One of the work health and safety manager's primary responsibilities will be to facilitate and implement the enforceable undertaking in addition to implementing the outcomes of the external audit.

### Tangible Outcome

The full-time work health and safety manager will deliver a proactive approach to health and safety.

The work health and safety manager will increase the direct support required by management and the executive on compliance and due diligence.

The work health and safety manager will deliver direct benefits to all supervisors and construction workers through the ongoing proactive management of Millin Builders' safety management plan.

### Beneficiaries / audience

Directors, managers, employees and contractors.

### Delivery method

Full-time employment of work health and safety manager.

### Timeframe

Immediately, subject to recruitment factors and availability and ongoing.

### Safety Outcome

- Leadership on work health and safety matters, providing advice to the management and direct implementation of a safety management plan.
- The work health and safety manager will provide direct engagement to and between the directors, management, supervisors and construction workers offering specialist safety knowledge and experience.
- By providing a direct link between construction workers and their supervisors up to direct level, the manager is in a position to be able to directly influence outcomes. This will empower not only management but also supervisors and construction workers to be able to achieve the objective of understanding the training, being able to identify hazards before undertaking a task, taking appropriate steps to manage those hazards and thereby avoid injuries and near misses.

## Strategy 3 – Standardisation of workplace induction – Estimated Cost - \$10,000

### Scope

Standardisation of workplace induction through implementation of a workplace Induction online application.

Standardisation of induction using online technology will be designed to eliminate incidents of induction, non-attendance or system failure as workers will not be able to commence work. The platform will be designed to ensure a worker understanding of workplace hazards, risk management and mitigation and will be job and site specific.

### Tangible Outcome

- (a) Establishment of standardised worker induction process across the business.
- (b) Improvements to the work health and safety system through efficiencies, consistency and improved effectiveness.
- (c) Record keeping that may be reviewed by management and supervisors in real time on site.

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2. Providing construction workers with additional leadership support and resources with direct emphasis on work health and safety.

**Strategy 5 – New Accommodation for WHS Manager and Three Cadets – Estimated Cost - \$7,500 (i.e. \$6,000 per annum)**

**Scope**

The employment of a work health and safety manager and the establishment of the Millin Builders cadetship program has led to Millin Builders outgrowing its accommodation. Millin Builders has decided to relocate to better premises in order to accommodate the additional resources.

**Tangible Outcome**

Improved accommodation for management, including work health and safety manager and cadets with improved modern as in state of the art facilities.

**Beneficiaries / audience**

Work health and safety manager and cadets.

**Delivery method**

Identification of appropriate premises, consultation with agent and relocation of business premises.

**Timeframe**

March 2018 to June 2019.

**Safety Outcome**

It is necessary in order to achieve the best outcomes from all levels of staff to ensure that those staff are properly resourced including appropriate accommodation premises and facilities. The purpose of the relocation is primarily but not wholly related to the additional resources, however, Millin Builders has identified the relevant apportionment of costs which accurately reflect those associated with work health and safety and leadership resources.

Total amount to be spent on benefits to workers

\$347,500

**F. STRATEGIES THAT WILL DELIVER INDUSTRY BENEFITS**

**Strategy 6 – Development of a youth focused work health and safety DVD – Estimated Cost \$5,000**

**Scope**

Millin Builders has previously developed a training DVD in conjunction with Access Canberra (then WorkSafe ACT) in relation to panel lifting procedures. Millin Builders proposes to leverage of its experience to produce a new safety DVD focusing on the induction and training processes which is the starting point for ensuring the delivery of a consistent safety message to all workers before the start of work and to be designed with particular emphasis on the young workforce, particularly those entering the industry for the first time. The video will include an introduction in relation to general work health and safety obligations and focus upon cultural workplace factors and the importance of establishing meaningful and effective training from the outset particularly for those with less or no experience of the industry.

**Tangible Outcome**

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Total amount to be spent on benefits to industry

\$14,600

**f. STRATEGIES THAT WILL DELIVER COMMUNITY BENEFITS**

**Strategy 8 – A donation to the Ricky Stuart Foundation – Estimated Cost \$30,000**

**Scope**

A financial donation to Ricky Stuart Foundation.

**Tangible Outcome**

A \$30,000 contribution to a not for profit charitable association.

**Beneficiaries / audience**

ACT community.

**Delivery method**

Financial donation.

**Timeframe**

Three donations of \$10,000 each in March 2018, September 2018 and March 2019

**Safety Outcome**

Financial contribution to a not for profit charitable association.

**Strategy 9 – Community workplace safety campaign – Estimated cost \$7,500 (i.e. \$5,000 per annum)**

**Scope**

Milin Builders wishes to promote the importance of workplace safety in the community with the ambition of delivering the message of workplace safety to the entire ACT community over an 18 month period.

The initiative are aimed to promote a safe workplace culture in the ACT.

The initiatives includes Milin Builders sponsoring a local ACT boxing gymnasium *Centre Ring Fitness Centre Fyshwick* ACT between January 2018 and 30 June 2019 and in doing so promote ACTsafe through printed team uniforms and equipment.

**Tangible Outcome**

The sponsorship will promote workplace safety across the ACT region.

**Beneficiaries / audience**

ACT community and industry.

**Delivery method**

Targeting workplace safety through local sport sponsorship.

**Timeframe**

The radio advertising campaign will run between January 2018 and 30 June 2019.

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

Milin Builders is hereby committed to maintaining its work health and safety management system in accordance with the Australian Standard and audited by an accredited third party auditor with guidance for use, and established timeframes as set by Access Canberra.

Milin Builders will provide Access Canberra with all relevant third party audits in accordance with the undertaken.

- i. A commitment to ensure the OHSMS is audited by third party auditors

Milin Builders hereby commits to ensuring that its work health and safety management system will be audited by an accredited third party auditor that meets the Australian Standard in accordance with the established timeframes. It acknowledges that the auditor selected to perform the audit will meet the qualification requirements as set by Access Canberra and that details of the auditor's qualifications against the stated requirements will be provided with the audit reports to Access Canberra.

- j. A commitment to provide a copy of each finalised OHSMS audit report to Access Canberra

Milin Builders acknowledges that audit reports received from the auditor will be sent to an Access Canberra Inspector within 1 month together with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.

Milin Builders acknowledges that it will provide a written report to Access Canberra advising of the intended action in addressing each of the report's recommendations.

- k. A commitment to implement the recommendations from these audits (unless otherwise negotiated with Access Canberra)

Milin Builders commits to fully implement the intended actions arising from the audits within 6 months from receiving the audit report from the work health and safety system auditor unless otherwise agreed by Access Canberra.

- l. Timeframe

Milin Builders commits to implement the aforementioned strategies within 18 months of providing the undertaking or as agreed in consultation with Access Canberra.

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**ANNEXURE 1 – PUBLIC NOTICE OF ACCESS CANBERRA ACCEPTANCE OF UNDERTAKING**

Notice of Acceptance of an enforceable undertaking under Part 11 of the *Work Health and Safety Act 2011*.

The full undertaking and general information about enforceable undertakings will be available at [www.accesscanberra.act.gov.au](http://www.accesscanberra.act.gov.au)