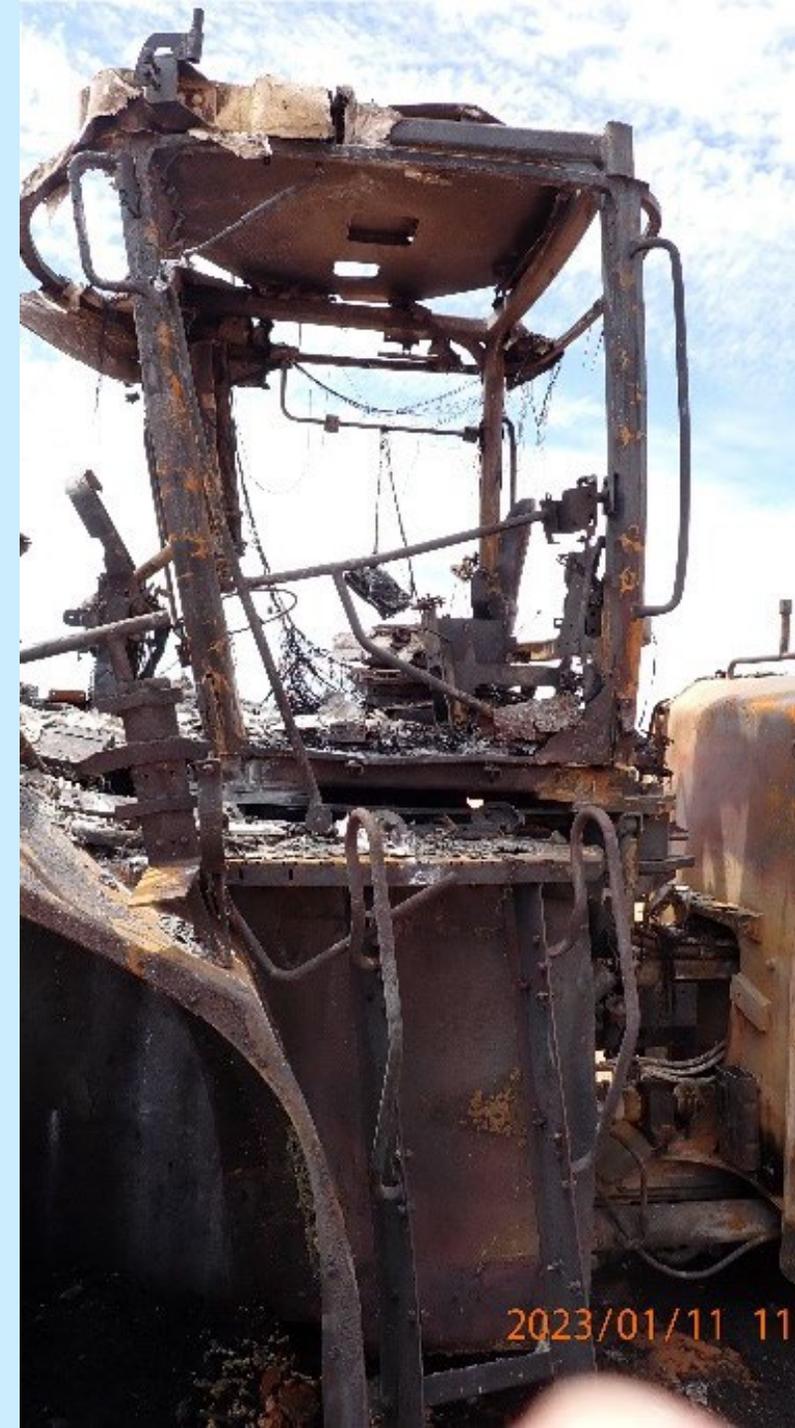


Reporting requirements and notices

Small Mines Roadshow 2024

February to April 2024



Reporting requirements - Work Health and Safety (Mines and Petroleum Sites) Regulation 2022

Legislative matters

Section 35, Notification of high-risk activities

Section 125, Duty to notify regulator of other matters

Section 126, Work and Safety Reports

Accidents and Incidents

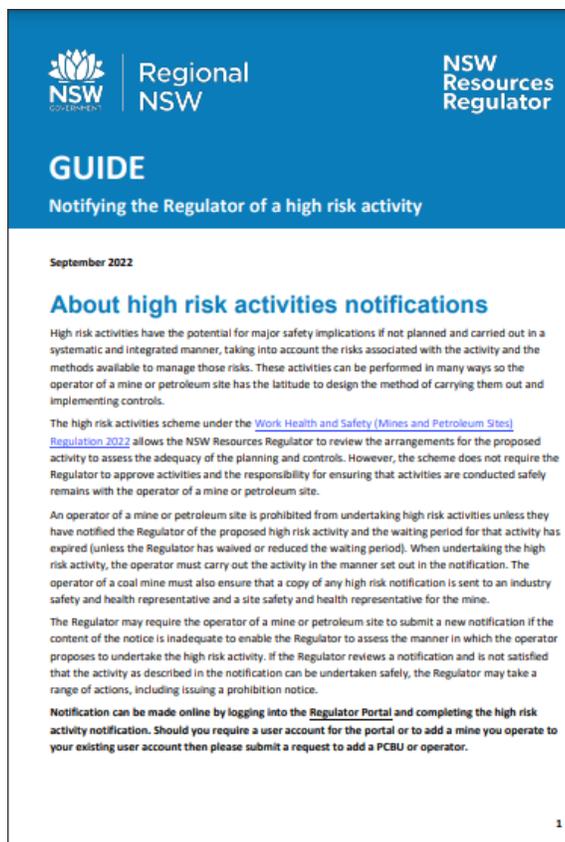
Section 124, Duty to notify regulator of certain incidents

Section 189, Serious Injury or Illness

Section 190, Dangerous Incident

Explosive Regulations 2013, clause 102 Notification of loss or theft of explosives or explosive precursors

Section 35, Notification of high-risk activities



Schedule 3 High risk activities

Applicable to small mines and quarries

Electrical work on energised electrical equipment but not if the electrical work is testing whether or not the equipment is energised.

Waiting period for activity is 7 days.

Winding systems – waiting period is 7 days

Section 35 continued

Underground mines

- Development of a portal - waiting period for the activity is three months
- Connected voltage becoming greater than 12,000 volts Waiting period for the activity is 12 months.
- Raise boring waiting period for the activity is three months



How do I notify a high-risk activity?

To notify the Regulator, log into the Regulator Portal and complete and submit the high-risk activity notification form.

What incidents must be reported

Six types of incidents that must be reported by the fastest possible means:

- the death of a person, s15 WH&S(M&PS)A 2013
- a serious injury or illness, WH&S(M&PS)R s189
- a 'dangerous incident', as defined in the regulations, WH&S(M&PS)R s190
- an incident that results in injury or illness requiring medical treatment, WH&S(M&PS)R s124
- a high potential incident, WH&S(M&PS)R s124
- certain incidents relating to explosives, Explosives Reg 2013 clause 102



What to do (notifiable incident summary)

If there is a **serious injury or illness, a death or a dangerous incident**, you must:

- provide first aid and make the area safe if needed
- report the incident to us **IMMEDIATELY** by calling 1300 814 609 (24 hours a day, 7 days a week).
- preserve the site where the incident occurred until an inspector releases it
- log in to the **Regulator Portal** to access the incident lodged by the Resources Regulator and provide further information if required.

Should you require a user account for the portal or to add a mine you operate to your existing user account then please submit a request to add a PCBU or operator.



The image is a dark blue informational graphic for the Resources Regulator. At the top left, it says 'Resources Regulator Department of Regional NSW'. On the right, a large white phone icon is next to the number '1300 814 609'. Below this, a blue bar contains the text 'For all other enquiries, PRESS 2 8.30AM-4.30PM MON-FRI'. The central part of the graphic features a circular arrangement of puzzle pieces numbered 1 through 5. Piece 1 is yellow and contains the text 'NOTIFY AN INCIDENT 24/7'. Piece 2 is blue and contains the text 'To notify a safety incident, or to enquire about an incident you have already notified, PRESS 1'. Pieces 3, 4, and 5 are dark blue with white outlines. To the right of the puzzle pieces is a vertical list of five white boxes, each with a number in a circle on the left and text on the right: 2. 'AUTHORISATIONS, PLANT REGISTRATION, LICENCES AND EXEMPTIONS PRESS 2'; 3. 'COMPETENCE, PRACTISING CERTIFICATES AND MUTUAL RECOGNITION PRESS 3'; 4. 'MINE SAFETY GENERAL PRESS 4'; 5. 'MINING ACT COMPLIANCE PRESS 5'.

Duties in regard to notifiable incidents

WHAT

- When a **notifiable incident** has occurred at a mine site each of the **following persons** must ensure, so far as is reasonably practicable, that **the incident site is not disturbed** until an inspector arrives at the incident site or any earlier time that a government official directs.
 - (a) any person who is required to ensure that the Regulator is notified of the notifiable incident,
 - (b) each person with management or control of the incident site.

EXCEPTION

This does not prevent any action:

- a) to assist an injured person, or
- b) to remove a deceased person, or
- c) that is essential to make the incident site safe or to minimise the risk of a further notifiable incident, or
- d) that is associated with a police investigation, or
- e) for which an inspector or the Regulator has given permission.

Section 17 Duty to preserve incident sites

Section 130, ancillary reports

Ancillary reports are:

A separate and additional requirement to the initial notification of an incident.

These reports must be submitted within 28 days after the incident was required to be reported.

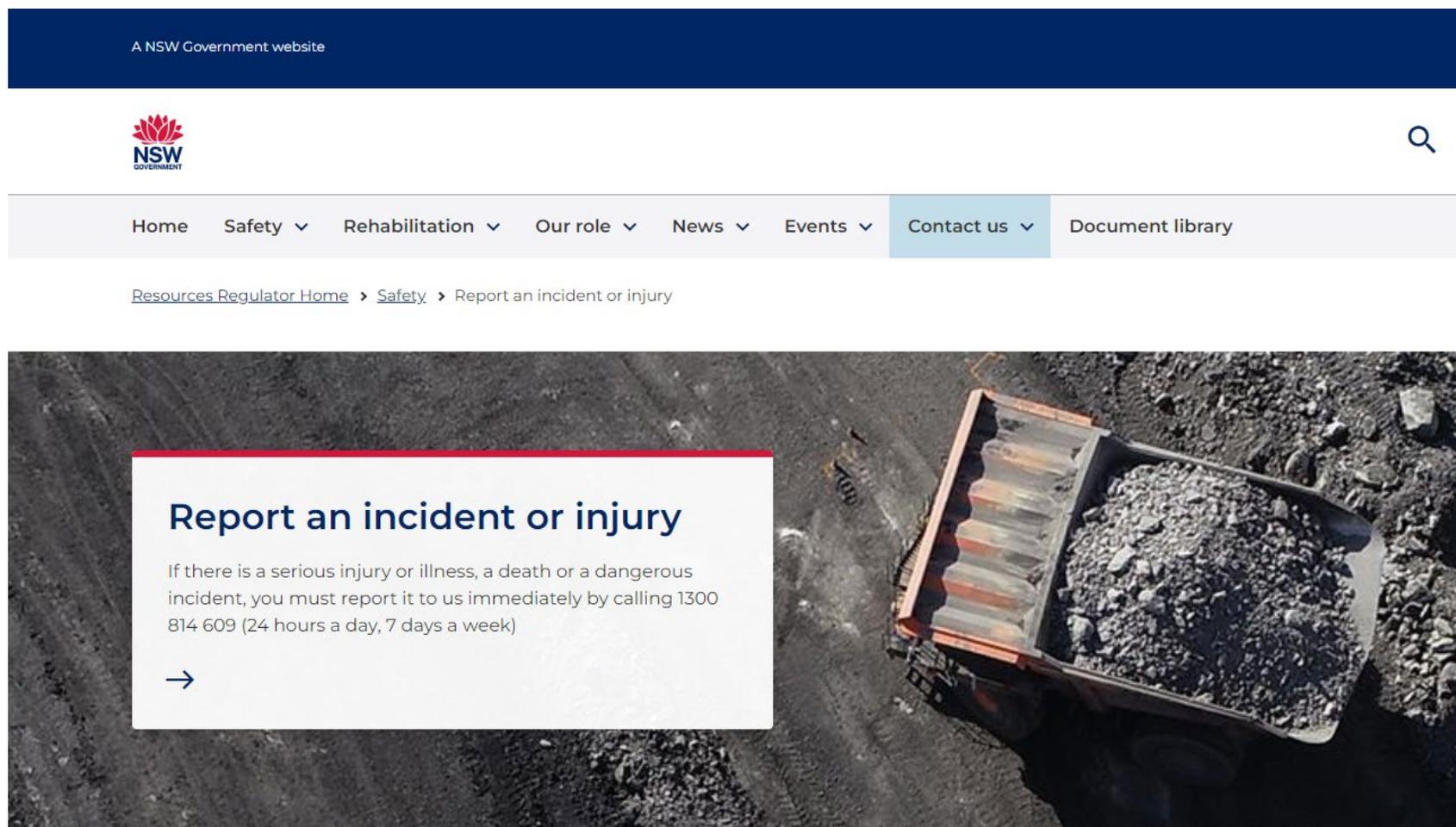
Injured person report.

Fire related to mobile plant – check.

Dust ancillary form.



How to notify the Regulator of other matters: reportable events



A NSW Government website

[Home](#) [Safety](#) [Rehabilitation](#) [Our role](#) [News](#) [Events](#) [Contact us](#) [Document library](#)

[Resources Regulator Home](#) > [Safety](#) > Report an incident or injury

Report an incident or injury

If there is a serious injury or illness, a death or a dangerous incident, you must report it to us immediately by calling 1300 814 609 (24 hours a day, 7 days a week)

[→](#)

The background of the page is a photograph of a large metal truck bed filled with dark, rocky material, likely coal or ore, at a mining site.

Section 125, Duty to notify Regulator of other matters

In respect of a mine, these are:

- commencement of mining activities
- any significant interruption to, or suspension of, mining activities at the mine
- recommencement of normal mining operations at the mine following any significant interruption or suspension of mining activities (as stated above)
- commencement of intermittent mining operations at the mine
- the connection of an electricity supply to the mine (but not if a person is nominated to exercise the statutory functions of electrical engineering manager or electrical engineer at the mine)
- closure of the mine.



Notify via form on
website or on portal

Nominate a competent person as a quarry manager

Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 section 180.

- Applicable for Tier 2 mine sites. Nomination no longer than 2 months in a calendar year.
- Nomination must be approved by the Resources Regulator.
- Application must contain evidence of competency, details of qualifications and experience.
- Quarry manager can be nominated under this section for no longer than 2 months in a calendar year.

Quarry manager – nominee is a competent person form

Clause 102, Reporting under the Explosive Regulations 2013

A licence holder must immediately notify:
Resources Regulator, and
a police officer, and
SafeWork NSW

If any explosive or explosive precursor in the possession, custody or control of a licence holder:
is lost, or
is stolen, or
is the subject of an attempted theft or any other suspicious incident that threatens the security of the premises.



Clause 103, Explosive Regulations 2013

A licence holder must give the regulatory authority notice of any serious incident relating to the handling of any explosives or explosive precursors to which the licence relates.

In this clause, serious incident means:

- an uncontrolled explosion or fire, or
- an incident resulting in the death of, or serious injury to, a person or substantial damage to property, or
- any other incident involving risk of an uncontrolled explosion or fire or of any such death, injury or damage.



Types of notices

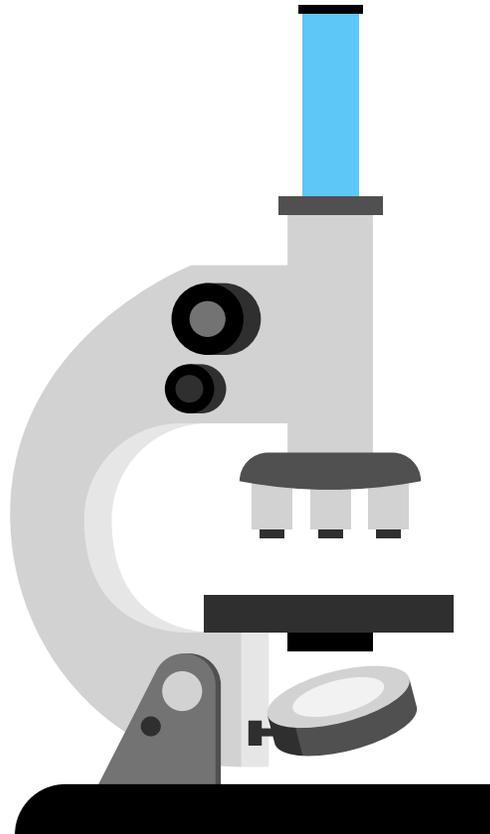
Notices are issued under the
Work Health & Safety Act 2011

- s23 Notifying mine operator of concerns
- s155 Notice to produce documents
- s171 Notice to obtain evidence
- s191 Improvement notice
- s195 Prohibition notice
- s198 Non-disturbance notice



Notices MUST be on display at the workplace (s210)

WHS Act – inspectors’ specific powers



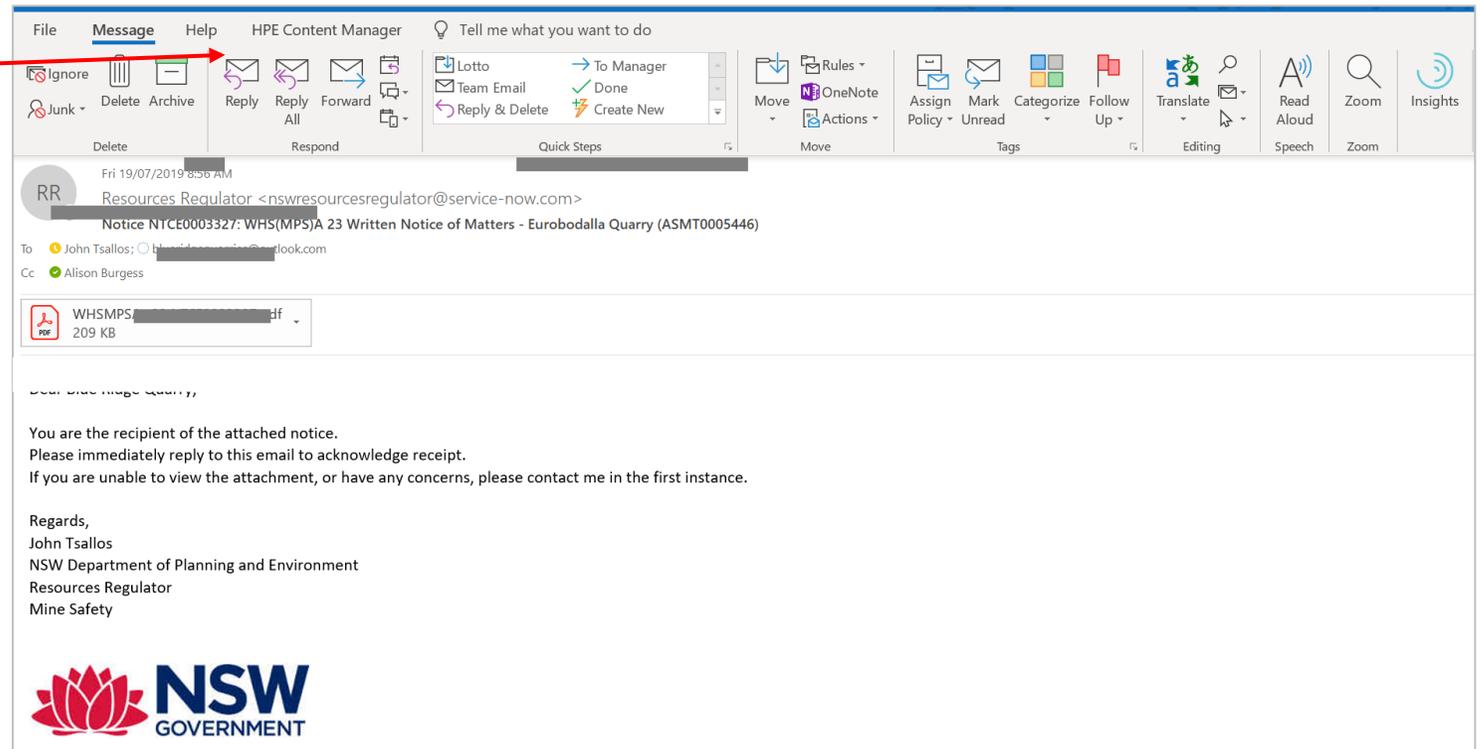
These powers include:

- entering a premise that is a mine or petroleum site, or one they reasonably suspect may be operating as a mine or petroleum site
- conducting interviews and make inquiries
- examining and inspecting any works, plants or vehicles
- taking photographs, video or other recordings, measurements and samples
- gathering, examining and copying documents or require records to be produced for inspection
- securing or seizing evidence.

Replying to confirm receipt of notice

Reply all

Acknowledge receipt
of notice.



The screenshot shows an Outlook email window. The ribbon is set to 'Message'. A red arrow points to the 'Reply All' button. The email is from 'Resources Regulator <nswresourcesregulator@service-now.com>' with the subject 'Notice NTCE0003327: WHS(MPS)A 23 Written Notice of Matters - Eurobodalla Quarry (ASMT0005446)'. The email body contains the following text:

Dear Mr [redacted],

You are the recipient of the attached notice.
Please immediately reply to this email to acknowledge receipt.
If you are unable to view the attachment, or have any concerns, please contact me in the first instance.

Regards,
John Tsallos
NSW Department of Planning and Environment
Resources Regulator
Mine Safety

At the bottom of the email, there is a logo for the NSW Government.

s23 Notifying the mine operator of concerns

Issued when an inspector becomes aware of a safety concern for:

- safe operation of the mine and/or
- the health and safety of workers at the mine during an inspection.

Notice is not enforceable



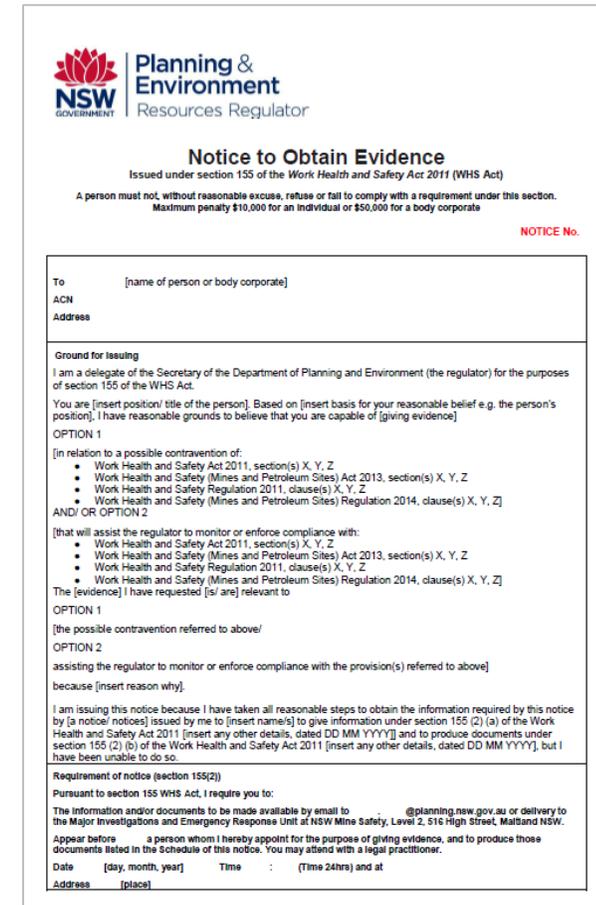
s155 Notice to obtain information

Written notice served on the person to obtain information

Information can be requested in 3 ways:

- in writing (statement)
- the production of documents
- to appear before a person appointed by the Regulator

This notice must be complied with by the due date.



The image shows a template for a 'Notice to Obtain Evidence' form. At the top left is the NSW Government logo and the text 'Planning & Environment Resources Regulator'. The title is 'Notice to Obtain Evidence', followed by 'Issued under section 155 of the Work Health and Safety Act 2011 (WHS Act)'. A warning states: 'A person must not, without reasonable excuse, refuse or fail to comply with a requirement under this section. Maximum penalty \$10,000 for an individual or \$50,000 for a body corporate.' A 'NOTICE No.' field is on the right. The 'To' field contains '[name of person or body corporate]', 'ACN', and 'Address'. The 'Ground for issuing' section states: 'I am a delegate of the Secretary of the Department of Planning and Environment (the regulator) for the purposes of section 155 of the WHS Act. You are [insert position/ title of the person]. Based on [insert basis for your reasonable belief e.g. the person's position], I have reasonable grounds to believe that you are capable of [giving evidence]'. It lists two options: 'OPTION 1' (in relation to a possible contravention of: Work Health and Safety Act 2011, section(s) X, Y, Z; Work Health and Safety (Mines and Petroleum Sites) Act 2013, section(s) X, Y, Z; Work Health and Safety Regulation 2011, clause(s) X, Y, Z; Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, clause(s) X, Y, Z) and 'OPTION 2' (that will assist the regulator to monitor or enforce compliance with: Work Health and Safety Act 2011, section(s) X, Y, Z; Work Health and Safety (Mines and Petroleum Sites) Act 2013, section(s) X, Y, Z; Work Health and Safety Regulation 2011, clause(s) X, Y, Z; Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, clause(s) X, Y, Z). The 'The [evidence] I have requested [is/ are] relevant to' field is followed by 'OPTION 1' and 'OPTION 2' with descriptions. A paragraph explains the reason for issuing the notice. The 'Requirement of notice (section 155(2))' section states: 'Pursuant to section 155 WHS Act, I require you to: The information and/or documents to be made available by email to [email address] @planning.nsw.gov.au or delivery to the Major Investigations and Emergency Response Unit at NSW Mine Safety, Level 2, 516 High Street, Maitland NSW. Appear before [name] a person whom I hereby appoint for the purpose of giving evidence, and to produce those documents listed in the schedule of this notice. You may attend with a legal practitioner. Date [day, month, year] Time [Time 24hrs] and at Address [place]'.

s171 Notice to produce documents

(1) An inspector who enters a workplace may:

require a person to tell the inspector who has custody of, or access to, a document, or

require a person who has custody of, or access to, a document to produce that document to the inspector while the inspector is at that workplace or within a specified period, or

require a person at the workplace to answer any questions put by the inspector.

Must be made while the inspector is on site.



Notice to Produce Documents

Issued under section 171 of the *Work Health and Safety Act 2011* (WHS Act)

A person must not, without reasonable excuse, refuse or fail to comply with a requirement under section 171 WHS Act.
Maximum penalty \$10,000 for an individual or \$50,000 for a body corporate.

NOTICE No. NTCE00 [REDACTED]

Part A: Notice issued to the following person

n191 Improvement notice

Issued when an inspector reasonably believes that a person:

is contravening a provision of this Act, or

has contravened a provision in circumstances that make it likely that the contravention will continue or be repeated.

Notice is enforceable

Extension may be granted



Improvement Notice

Issued under section 191 of the *Work Health and Safety Act 2011*

This notice requires the person (which includes a body corporate or other entity) to whom it is issued to remedy a contravention, or take action to prevent a likely contravention, of WHS laws as defined under section 5 of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS(M&PS) Act). Section 49 of the WHS(M&PS) Act can extend the circumstances of this notice.

Under section 210 of the *Work Health and Safety Act 2011* (WHS Act) the person to whom an Improvement Notice is issued must as soon as possible display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate. A person must not intentionally remove, destroy, damage or deface a notice displayed while the notice is in force. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate.

The person to whom an Improvement Notice is issued must comply with the notice for the period specified. Maximum penalty of \$50,000 for an individual or \$250,000 for a body corporate.

Complying with Directions - n191 notice

Part E: Directions/recommendations

Directions (if any) on the measures to be taken to remedy the contravention or prevent the likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.

(It is mandatory to comply with these directions)

The matters identified in section D are rectified as per the following directions:

1. Reinstall and maintain a 'stop log' device that will prevent the loader from being able to drive over the edge of the ramp.
2. Rectify and maintain the walkway on the ag lime discharge conveyor so that it is fit for purpose.
3. Rectify and maintain the fixture point for the panel guard so that it can always be secured.
4. Assess the risk of people being able to step down into the unguarded area below the feed ramp and install suitable controls so that a person cannot be exposed to an entanglement hazard.
5. Install and maintain a guard below the intermediate platform to prevent people from being able to access the area and being exposed to an entanglement hazard.
6. Install and maintain spring covers to prevent persons from being exposed to an entanglement hazard.
7. Assess the risk of persons being struck by flying debris from rock breaking activities and implement controls, including safe standing zones, to exclude people from the area.
8. Assess the risk of pedestrians interacting with mobile plant and other equipment and implement controls, including safe standing zones, to manage the interactions.

The mine operator provides evidence of the actions taken (including photos of completed work) to the NSW Resources Regulator via angus.mcdouall@planning.nsw.gov.au, by the compliance date of this notice for review.

Recommendations (if any). *(It is not an offence to fail to comply with recommendations in a notice)*

Obtain a copy of AS/NZS 4024.3610:2015 Safety of machinery - Conveyors - General requirements and make it available to supervisors and workers.

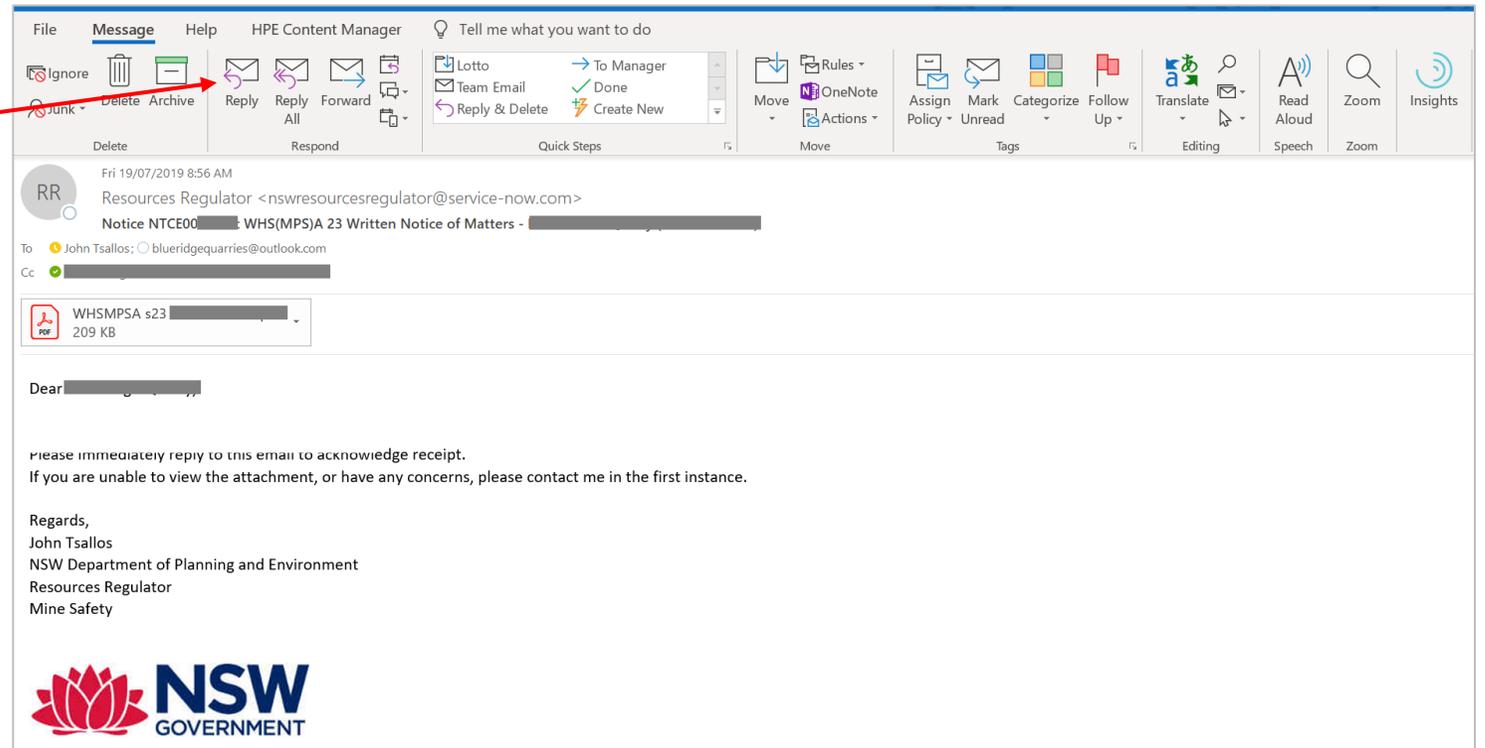
When complying with the directions in this notice complete the guarding modifications and installations in accordance with AS/NZS 4024.3610:2015 Safety of machinery - Conveyors - General requirements

- Comply with **ALL** Directions in Part E in the required timeframe
- “Install and maintain” controls, otherwise non-compliant to notice.
- A request for an extension can be done, but must be at least one week prior to compliance date. Submit an Action Plan / update. This may or may not be granted
- Provide evidence of compliance
- Non-compliant notices referred for Enforcement Action.

Submitting evidence of compliance to notice

Reply all

Attached evidence of compliance to the notice.



At next site visit, inspector will follow up on all notices to ensure compliance

n195 Prohibition notice



Stops workplace activities for example all mining activities or entering an area or operating plant etc.

Direction may be given orally but will be confirmed in writing.

No timeframe given for compliance.

It is an offence if you do not comply with the direction in the notice.



Prohibition Notice

Issued under section 195 of the *Work Health and Safety Act 2011*

This notice is issued to the person (which includes a body corporate or other entity) who has control over the activity described in the notice. This notice prohibits an activity that is occurring or may occur at a workplace which involves, will involve or could involve a serious risk to the health or safety of a person either emanating from an immediate or imminent exposure to a hazard or otherwise, or an activity that has caused or is causing a contravention of the WHS laws, as defined under section 5 of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS(M&PS) Act). Section 50 of the WHS(M&PS) Act can extend the circumstances of this notice.

Under section 210 of the *Work Health and Safety Act 2011* (WHS Act) the person to whom a Prohibition Notice is issued must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate. A person must not intentionally remove, destroy, damage or deface a notice displayed while the notice is in force. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate.

You must comply with this notice for the period specified. Maximum penalty of \$100,000 for an individual or \$500,000 for a body corporate.

s51 Stop work order

30/09/2019

Resources Regulator stops mining at Thuddungra Mine - NSW Resources Regulator



(L)

Resources Regulator

Resources Regulator stops mining at Thuddungra Mine

31st January 2019

The Resources Regulator has issued a stop work order to halt mining at the Thuddungra Mine near Young, in southern New South Wales.

The order was issued under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* as a result of the identification of a range of serious safety issues at the mine.

The regulator believes the order is necessary to prevent a serious risk to the health or safety of workers at the mine related to the operation of plant and vehicles and potential exposure to naturally occurring asbestos.

Inspectors from the Resources Regulator attended the mine last week and issued directions to prohibit, among other things, the operation of plant and vehicles considered unsafe.

The inspectors have also required the mine operator to address a significant number of other issues through an improvement notice.

- 1) The Regulator may make an order (a *stop work order*) requiring a PCBU at a mine or petroleum site to stop any activity at any place specified in the order.
- 2) A stop work order may also require the PCBU to carry out any activity that the regulator considers to be necessary to ensure that the place to which the order relates is made safe.
- 3) The Regulator may make a stop work order only if the Regulator reasonably believes that the making of the order is necessary to prevent a serious risk to the health or safety of any person.

n198 Non-disturbance notice

You must preserve the scene.

Usually issued where a fatality or serious incident.

It is an offence if you do not comply to the notice.

Issued for a maximum of 7 days.



Non-disturbance Notice

Issued under section 198 of the *Work Health and Safety Act 2011*

This notice requires the person with management or control of a workplace (which includes a body corporate or other entity) to preserve the site at which a notifiable incident has occurred or prevent the disturbance of a particular site (including the operation of plant) for a specified period.

Under section 210 of the *Work Health and Safety Act 2011* (WHS Act) the person to whom a Non-disturbance Notice is issued must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate. A person must not intentionally remove, destroy, damage or deface a notice displayed while the notice is in force. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate.

You must comply with this notice for the period specified. Maximum penalty of \$50,000 for an individual or \$250,000 for a body corporate.

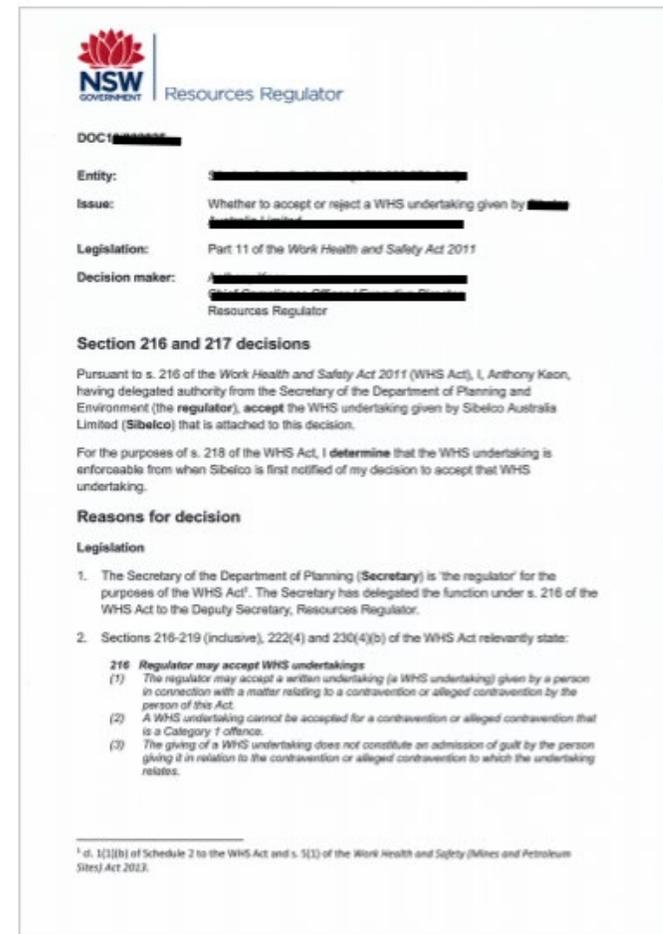
NOTICE No. NTCE0

Escalation process

Non-compliance to a notice

Compliance outcomes may include:

- investigation outcome letter
- formal written warning or caution letter
- penalty notice (fine)
- consideration of enforceable undertakings
- prosecution



The image shows a document from the Resources Regulator, NSW Government. The document is titled "DOC1" and contains the following information:

Entity: [Redacted]

Issue: Whether to accept or reject a WHS undertaking given by [Redacted]

Legislation: Part 11 of the Work Health and Safety Act 2011

Decision maker: [Redacted]
Resources Regulator

Section 216 and 217 decisions

Pursuant to s. 216 of the Work Health and Safety Act 2011 (WHS Act), I, Anthony Keon, having delegated authority from the Secretary of the Department of Planning and Environment (the **regulator**), **accept** the WHS undertaking given by Sibeco Australia Limited (**Sibeco**) that is attached to this decision.

For the purposes of s. 218 of the WHS Act, I **determine** that the WHS undertaking is enforceable from when Sibeco is first notified of my decision to accept that WHS undertaking.

Reasons for decision

Legislation

1. The Secretary of the Department of Planning (**Secretary**) is 'the regulator' for the purposes of the WHS Act¹. The Secretary has delegated the function under s. 216 of the WHS Act to the Deputy Secretary, Resources Regulator.
2. Sections 216-219 (inclusive), 222(4) and 230(4)(b) of the WHS Act relevantly state:

216 Regulator may accept WHS undertakings

- (1) The regulator may accept a written undertaking (a WHS undertaking) given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this Act.
- (2) A WHS undertaking cannot be accepted for a contravention or alleged contravention that is a Category 1 offence.
- (3) The giving of a WHS undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

¹ d. 1(1)(h) of Schedule 2 to the WHS Act and s. 5(1) of the Work Health and Safety (Mines and Petroleum Sites) Act 2013.

Thank you

Any questions?