

WHS undertaking

Reasons for decision

Entity	E.B. Mawson & Sons Pty Ltd (ACN 004 519 617)
Issue	Whether to accept or reject a WHS undertaking
Legislation	Part 11 of the <i>Work Health and Safety Act 2011</i>
Decision maker	Jamie Tripodi Executive Director, Resources Regulator Department of Primary Industries and Regional Development

Section 216 and 218 decisions

Pursuant to section 216 of the *Work Health and Safety Act 2011* I, Jamie Tripodi, having a delegated authority from the Secretary of the Department of Primary Industries and Regional Development, have determined to accept the WHS undertaking given by E.B. Mawson & Sons Pty Ltd that is attached to this decision.

For the purposes of section 218 of the *Work Health and Safety Act 2011* (**WHS Act**) I determine that the WHS undertaking is enforceable from when E.B. Mawson & Sons Pty Ltd is first notified of my decision to accept that WHS undertaking.

Reasons for decision

Legislation

1. Section 216 of the WHS Act provides that:
 - a) The Resources Regulator (**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 the WHS Act.
 - b) A WHS undertaking cannot be accepted for a contravention or alleged contravention that is a Category 1 offence.
 - c) 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 WHS undertaking relates.

2. Section 217 requires the regulator to give the person seeking to make a WHS undertaking written notice of the regulator's decision to accept or reject the WHS undertaking and the reasons for the decision. The regulator is also required to publish on its website any decision to accept a WHS undertaking.
3. Section 222 provides that no proceedings for a contravention or alleged contravention of the WHS Act may be brought against a person if a WHS undertaking is in effect, or has been completely discharged, in relation to that contravention. If proceedings have already been commenced when the regulator accepts a WHS undertaking, then the regulator must take all reasonable steps to have the proceedings discontinued as soon as possible.
4. In exercising functions under the WHS Act, the regulator must have regard to the objects set out in section 3 of the WHS Act.
5. The maximum penalty for failing to comply with a WHS undertaking is \$374,369 in the case of a corporation. Failure to comply with a WHS undertaking may also result in prosecution action being taken in relation to the original alleged offence.
6. The regulator may delegate any functions conferred under the WHS Act to another person. The Secretary of the Department of Primary Industries and Regional Development is “the regulator” for the purposes of the WHS Act and has delegated the function to accept a WHS undertaking under section 216 of the WHS Act to the Executive Director, Resources Regulator¹.
7. The regulator has issued, and published on the regulator’s website, guidelines relevant to the acceptance of WHS undertakings as required by section 230 of the WHS Act.

Background

8. The Western Riverina Quarry is operated by E.B. Mawson & Sons Pty Ltd. The quarry, in Rankin Springs, is a workplace within the meaning of section 8 of the WHS Act.
9. On 13 May 2024 at the Western Riverina Quarry, two workers employed by E.B. Mawson & Sons Pty Ltd were conducting an oil change on a Nordberg Metso HP300 cone crusher. The workers determined that they needed to remove a build-up of dust/sludge from the oil reservoir. The workers used rags and brake cleaning fluid. During this process one of the workers used a handheld battery powered blower to clean the area. The blower was turned off for a short time. The blower was then turned on again to repeat the task at which time airborne brake cleaner droplets ignited and both workers suffered burns.
10. The regulator alleges that E.B. Mawson & Sons Pty Ltd contravened the WHS Act in respect to this incident.

WHS undertaking given by E.B. Mawson & Sons Pty Ltd

11. On 27 October 2025, E.B. Mawson & Sons Pty Ltd (**Mawsons**) submitted a signed WHS undertaking to the regulator. Consistent with the guidelines the undertaking was developed using the pre-proposal advisory service offered by the regulator which provided feedback on the proposed terms of the WHS undertaking.

¹ Work Health and Safety (Mines and Petroleum Sites) Laws Instrument of Delegation (Regulator) 2022

12. In summary, the WHS undertaking will impose obligations on Mawsons to:

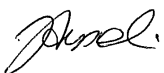
- a) commit that the behaviour that led to the alleged contravention has ceased
- b) publish a public notice in the Area News and Daily Telegraph
- c) disseminate information about the undertaking to all workers
- d) reimburse the regulator's costs incurred including investigative and monitoring costs of the undertaking, a total cost of \$33,063
- e) engage the Institute of Quarrying Australia (IQA) to develop and deliver a comprehensive training course on plant and equipment maintenance for employees. The course will include delivery of facilitator led training across seven regional towns including Griffith, Leeton, Wagga Wagga, Broken Hill, Finley, Moama and Mulwala. The course is a full day delivery with capacity for up to 12 employees per session. The estimated cost of this project is \$75,000.
- f) purchase a transit van to which a Tenstar Simulator will be installed. The Simulator is in the process of being purchased (not part of the costing for this WHS undertaking proposal) and will provide workers who operate heavy plant with practical, real-life training in a simulated environment. The purchase of the transit van will add value to the workforce, allowing the simulator to be moved across operational sites to allow for workers to undertake training. The cost of acquiring the transit van will be \$56,691 (excl. GST) plus approximately \$20,000 on fit outs with an estimated total cost of \$76,691 for the project.
- g) engage a subject matter expert, Chris Georgiou from TASC Solutions, to undertake a mentoring program with on-site leaders, in particular quarry managers and supervisors. The estimated cost is \$60,000.
- h) engage IQA to deliver the comprehensive training course on plant and equipment maintenance (referred to above) to industry. The course will be delivered by means of a 5-hour online group setting. Mawsons will subsidise delivery to 110 workers across industry. The estimated cost of this project is \$75,500.
- i) donate \$20,000 to Sport and Life Training, comprising \$2,000 to 10 senior clubs to provide them full access to the "Club Wellbeing Package".
- j) donate \$10,000 to the Rankins Springs Rural Fire Service, who acted as first responders to the incident at the Quarry and \$10,000 to Hanwood Rural Fire Service.
- k) commit to a total minimum spend of \$360,254 and complete the undertaking on or before 24 months from acceptance by the regulator.

Considerations and findings

13. I am satisfied that the proposed WHS undertaking meets the requirements of the WHS Act and the guidelines. I have also had regard to the objects set out in section 3 of the WHS Act in considering this matter.

14. While under the WHS Act the giving of a WHS undertaking does not constitute an admission of guilt, Mawsons has acknowledged that the regulator alleges a contravention of its health and safety duty and regrets the incident occurred.
15. There is a strong community expectation that companies such as Mawsons are aware of its obligations under the WHS Act and have systems in place to ensure compliance.
16. The subject WHS undertaking, if accepted, will require Mawsons to incur costs of at least \$360,254 including the funding and delivery of safety and community projects at a minimum cost of \$327,191.
17. In this regard, I note that the cost of the WHS undertaking is higher than the likely penalty that would be imposed in a court as a result of prosecution action.
18. In this respect, I am satisfied that the WHS undertaking proposed by Mawsons adequately reflects the seriousness of the incident and the alleged offending.
19. However, the monetary value alone is not a determinative factor. The strategies of the WHS undertaking need to go beyond mere compliance and provide clear and tangible benefits to workers, the broader industry or the community - beyond what the regulator would ordinarily expect of an operator.
20. Mawsons has provided a WHS undertaking which includes projects that I am satisfied meet those objectives. The development and delivery of a comprehensive training course on plant and equipment maintenance to employees at Mawsons' quarries in NSW and the mentoring program for quarry managers and supervisors will deliver direct benefits to workers employed by Mawsons. The online delivery of the training course on plant and equipment maintenance to a further 110 workers will bring benefits to the quarrying industry. The donations to Sport and Life Training, the Rankin Springs Rural Fire Service and Hanwood Rural Fire Service will benefit the community.
21. Accordingly, having considered the collective benefits of the WHS undertaking in its entirety, I am satisfied that it will provide greater benefits to the workforce, industry and community than prosecution proceedings.
22. I am also satisfied that the requirement under the WHS Act to publish the undertaking and this decision, will provide similar specific and general deterrence to successful legal proceedings.
23. The acceptance of a WHS undertaking will ensure that the regulator, and ultimately the taxpayer, does not incur further costs in relation to the matter, particularly in relation to investigation and legal costs, which may never fully be recouped through prosecution action.
24. Accordingly, I have determined to accept the WHS undertaking given by Mawsons.

Date of decision: 30 October 2025



Jamie Tripodi

Executive Director, Resources Regulator

Department of Primary Industries and Regional Development

NOTE: In accordance with section 217 of the *Work Health and Safety Act 2011* this decision will be published on the Regulator's website.

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