

Workplace Health and Safety Undertaking

Workplace Health and Safety Act 1995

Undertaking to the Chief Executive, Department of Industrial Relations given for the purposes of Section 42 of the Workplace Health and Safety Act 1995

by

Finlay Screening & Crushing Systems Pty Ltd
ACN 059 443 677

Background

1. Finlay Screening & Crushing Systems Pty Ltd (the Company), was incorporated 15 March 1993 and has operated its business at 740 Old Gympie Road, Burpengary, QLD 4505, since that time.
2. The Company imports mobile crushing and mobile screening machines which are manufactured in Northern Ireland. These machines arrive fully assembled. The company sells, hires and services these machines.
3. The work carried out at the Burpengary site consists of inspecting and detailing (minor paint touch-up) new tracked machines, assembling smaller machines (units) which arrive containerised, and servicing and maintaining customers machines as well as the company's hire fleet.
4. The Company employs approximately 20 workers at this site.

Incident

5. On 6 September 2007, Company workers were assembling a 'stockpiler' machine at the premises in preparation for delivery to a client. An authorised representative (visitor) of another client/customer was present at the site. The visitor had been on site the day before and was wearing safety glasses provided by his employer.
6. Two Company workers were attempting to fit axle flanges to the said machine. The axle flange became lodged within its housing and it was necessary for the workers use a sledge hammer to bend the metal housing of the flange.
7. During the process of fitting the axle flanges, the visitor to the Finlay site went to see work being performed by these workers. It was while the visitor was observing the work performed by these workers that he was struck in the left eye by a piece of metal that dislodged from the flange.
8. Some time immediately prior to the incident, the visitor had removed the safety glasses from his face and placed them on the top of his head.

9. Company staff administered first aid until the ambulance arrived and transported the injured person to the Royal Brisbane Hospital.

Acknowledgment

10. It is acknowledged that Workplace Health and Safety Queensland has alleged the Company has contravened provisions of the *Workplace Health and Safety Act 1995*. These allegations are considered very serious and the Company has conducted its own investigations into both the incident itself and the necessary remedial measures required to ensure there is no repetition of the incident.

Alleged Contravention

11. The Department of Employment and Industrial Relations has lodged a Complaint and Summons with the Industrial Magistrates Court of Queensland alleging that the Company breached section 24 of the *Workplace Health and Safety Act 1995* by failing to discharge the workplace health and safety obligations imposed pursuant to section 28(1) of the Act.

12. The Particulars of the Complaint are:

Workplace:	740 Old Gympie Road, Burpengary
Business or Undertaking:	Selling and hiring crushing screening equipment
Hazards:	The source of the risk is: (a) a flying fragment of metal; and (b) the system of work for the use of a sledgehammer to spread a metal bracket on a stockpiling machine

The risk is the risk of death or injury, including the risk of injuries to the left eye of the visitor.

It is alleged that the breach caused grievous bodily harm.

Statement of Regret

13. Finlay Screening & Crushing Systems Pty Ltd sincerely regrets the circumstances of the incident that occurred at its Burpengary premises. The Company and its management are committed to the safety of its employees and others at the workplace. As part of the Company's ongoing commitment to safety, it now seeks to embody various actions and activities within this Enforceable Undertaking which will significantly improve safety at the workplace and provide a range of benefits to workers, industry and the community.

Assurance About Future Behaviour

14. The Company and its management are committed to ensuring the safety of workers and others at the workplace. Finlay Screening & Crushing Systems Pty Ltd gives an assurance that they will endeavour to ensure that an incident of this nature does not

happen again and that appropriate safety systems are put in place, maintained and improved.

Post Incident Measures

15. As a result of the incident the Company has carried out a number of measures intended to eliminate any further risk of harm to workers and others at the workplace.
16. These measures include the following:
 - Improved safety signage on site emphasising the Company's mandatory PPE requirements;
 - Dedicated pedestrian walkways were implemented at the site;
 - Improved visitor induction process;
 - Creation and implementation of documented Safe Work Instructions/Procedures for all at risk work practices including those associated with the removal of axle flanges;
 - Yard and workshop areas fenced off to restrict access by unauthorised or unescorted persons;
 - The manufacture of improved guarding for several items of plant within the workshops;
 - Improved manual handling practices and the manufacture of custom built shelving for parts within the store.

Terms of this Undertaking

Occupational Health and Safety Management System

17. The Company will commission an occupational health and safety specialist to assist the Company with the implementation of a formal Occupational Health and Safety Management System that is consistent with the requirements of AS/NZ 4801:2001 *Occupational Health and Safety Management Systems*. The occupational health safety specialist will be retained by the Company within 1 months of acceptance of this Undertaking by the Director General.
18. The Company will commission a suitably qualified third party OHS auditor to conduct an audit of the workplace against the criteria for Safety Management Systems contained within AS/NZS 4801:2001 *Occupational Health and Safety Management Systems*. The initial audit will be undertaken within three months of acceptance of this undertaking by the Director General.
19. Following from the initial audit, a second audit against the criteria in AS/NZS 4801:2001 *Occupational Health and Safety Management Systems* will occur 12 months after the initial audit (paragraph 18).
20. A final audit against the criteria in AS/NZS 4801:2001 Occupational Health and Safety Management Systems will occur no later than 24 months after acceptance of this undertaking by the Director General.

21. Auditors selected to perform these Safety Management System audits should be certified by a certification body accredited by JAS-ANZ to ISO/IEC 17024:2003 General Requirements for bodies operating the certification of persons.
22. Copies of the audit reports (identified in paragraphs 18, 19 and 20) shall be forwarded by the auditor to the Company, with a copy sent within 30 days by the Company direct to the Executive Director, Workplace Health and Safety Queensland.
23. Within 30 days of receipt of the auditor's written report the Company will also advise the Executive Director, Workplace Health and Safety Queensland of their intended action in addressing each of the report's recommendations.
24. There is an expectation that the Company will, within six months of receipt of these audit reports, fully implement the recommendations resulting from the Safety Management Systems audits, unless exempted by the Chief Executive of the Department of Employment and Industrial Relations as being unreasonable.
25. The Company estimates that the costs associated with carrying out the initial audit and report will be approximately \$3080.00. The cost of the two follow up audits specified above \$6,160.00. (Approximate Total Cost **\$9,240.00.**)
26. The Company is unable to estimate the costs associated with implementing any recommendations arising out of the abovementioned audits until such recommendations, if any, are known and considered.

Benefits to Workers

27. The Company will deliver information regarding the terms and scope of this Enforceable Undertaking to its Workplace Health and Safety Committee and/or Workplace Health and Safety Representatives within 1 month of acceptance of this Enforceable Undertaking by the Director General.
28. Within 6 months of acceptance of this Enforceable Undertaking by the Director General, and as part of the creation of a Safety Management System, the occupational health and safety specialist will:
 - (a) Identify and assist with the implementation of a number of safe work procedures including; Safe Work Instructions, Risk Assessments, and Incident Reporting and Investigation. All Company managers, supervisors and workers will be inducted into the new Safety Management System and procedures once developed.
 - (b) All managers and workers will be encouraged to participate in the creation of new Safe Work Instructions relevant to their role/duties on site. This has the benefit of achieving worker 'buy-in' and commitment to the process, as well as achieving the best practice for the workplace. Workers will be fully advised and trained regarding these new Safe Work Instructions and be required to commit to these instructions.

- (c) Costs of reviewing and upgrading the Safety Management System, including the preparation of essential documentation are estimated at, but are a minimum of **\$5500.00**.
- (d) Within 6 months of acceptance of this Undertaking, the specialist training sessions will be delivered by the occupational health and safety specialist to all managers and workers on site. These training packages will include the following:
 - ii. Hazard and Risk identification (2 hours)
 - iii. Incident causation (3 hours)
 - iv. Overview of the Finlay Safety Management System and process (1 ½ hours)
- (e) The costs of the preparation and delivery of these training sessions to all Company managers and workers are estimated at **\$3080.00** (specialist costs + loss of production and man hours **\$2000.00**)

29. The Company estimate the total costs associated with the Consulting Services referred to in paragraph 28 to be **\$5,500.00 + \$5080.00 = \$10,580.00**.

30. Within 12 months of acceptance of this Enforceable Undertaking the Company will provide 3 workers at the Burpengary site First Aid Training. (Approximate cost \$500.00 + \$3000.00 in man hour costs = **\$3,500**). This training course will be conducted by St John Ambulance.

31. The Company has identified a number of measures which will improve the overall safety of all workers and visitors to the workplace. These improvement measures are specifically designed to benefit workers and visitors to the site and go beyond mere compliance with legislative obligations regarding safety. These measures, and associated costs are set out below:

- (i) Within 3 months of acceptance of this Undertaking, the Company will commission the services of a machine guarding expert to carry out an inspection and audit of all machinery used by workers to identify any areas of improvement. Costs of these measures are estimated at **\$3000.00**. These costs do not include the costs of any recommended improvement measures identified by the specialist.
- (ii) Within 6 months of acceptance of this Undertaking, the Company will reconfigure the workshop with the installation of a new lunch room. Purpose built barricades will be installed surrounding a new dedicated worker and visitor access (pedestrian zone) to this area. This measure is intended to provide greater worker and visitor safety by ensuring staff and visitors do not enter the workshop area to access the lunch room and facilities. The costs of these improvement measures are estimated at **\$20,000.00**
- (iii) Within 6 months of acceptance of this Undertaking, the Company will begin construction of a new paint booth on site. This new booth will replace the existing structure and provide for improved storage and handling of hazardous substances, dedicated first aid station and improved

ventilation/extraction. The costs of these improvement measures are estimated at **\$6000.00**

- (iv) Within 12 months of acceptance of this Undertaking, the Company will commission the construction of 2 heavy duty ramps to aid in the loading and unloading of large machinery on site. The existing process for loading and unloading utilises compacted earth and can be improved with greater worker safety by the construction of an improved loading ramp. The costs of this improvement measure is estimated at **\$10,000.00**
- (v) Within 12 months of acceptance of this Undertaking, the Company will commission suitably qualified experts in the field of fire safety to assist with the creation and implementation of improved fire safety procedures, including fire fighting equipment and training. The cost of these improvement measures is estimated at **\$10,000.00**.

Benefits to Industry

- 32. To ensure that the lessons learned as a result of this incident are shared with other similar employer groups, the company will within six months of signing the undertaking, produce and publish a case study article in a suitable industry magazine. The estimated cost to produce and publish this article is **\$1,000**.

Benefits to the General Community

- 33. Within 60 days of acceptance of the Enforceable Undertaking, the Company will donate **\$10,000** towards the provision of medical equipment to the Royal Brisbane Eye Unit. The timing of this donation will depend upon discussions and agreement with the Royal Brisbane Hospital regarding suitable equipment and its availability.

Monitoring Compliance with Terms of the Undertaking

- 34. The Company acknowledges that the Department will conduct a series of audits to ensure the Company's compliance with the terms of this undertaking. The following compliance audit schedule is agreed:

First compliance audit is to be conducted by August 2009;

Second compliance audit is to be conducted during August 2010;

Third (final) compliance audit is to be conducted during August 2011

- 35. The Company acknowledges its responsibility to cooperate with the Department's Compliance Auditor and will ensure relevant material (evidence of compliance) will be available. The Company understands that the cost of these compliance audits will be met by the Company, and is detailed at Clause 37 (iii).

- 36. The company acknowledges that the Department may initiate additional compliance audits as considered necessary, at the Department's expense.

Costs

37. The following costs shall be payable to the Department:
- (i) Investigation costs in the amount of \$2 205, representing the reasonable investigation costs arising out of the incident.
 - (ii) Consideration costs of \$800
 - (iii) Compliance Auditing and Regulatory Monitoring costs of \$2 376 representing costs to the Department in monitoring and auditing of compliance with the terms of this undertaking.
 - (iv) Cost of \$2 000 being the costs to the Department in publishing the Notice of Acceptance.
38. The total amount of **\$7,381** will be due for payment 30 days after receipt of the Department's invoice.
39. The estimated value of this undertaking is \$90,701.00. The Company is committed to investing a minimum of \$90,000.00 on this undertaking which will significantly enhance the company's safety systems and provide benefits to industry and the community. Accordingly, if the 'actual' total expenditure associated with delivery of the undertaking is less than \$90,000.00, the cost difference will be provided as a donation to the Eye Unit, Royal Brisbane Hospital within 30 days of completion of this the last action/activity by the company under this Undertaking.
40. This undertaking will be deemed to be formally concluded when the Chief Executive confirms in writing that the undertaking has been satisfactorily executed.

Cost Summary Table

Employee / workplace Benefits	\$72,320.00
Industry Benefits	\$1,000.00
Community Benefits	\$10,000.00
DEIR Recoverable Costs	\$7 381.00
Sub-Total	\$90,701.00
Subtotal Rounded down to nearest \$1000	\$90,000.00
TOTAL Estimated Value of EU	\$90,701.00
Minimum Agreed Spend	\$90,000.00

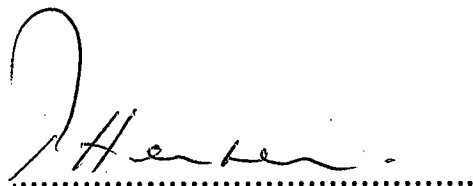
Dated at Brisbane this 14th day of MARCH 2009



Jim Halikos
Director
Finlay Screening & Crushing Systems Pty Ltd.

**ACCEPTED BY THE CHIEF EXECUTIVE, DEPARTMENT OF EMPLOYMENT
AND INDUSTRIAL RELATIONS PURSUANT TO SECTION 42E OF THE
WORKPLACE HEALTH AND SAFETY ACT 1995**

Dated at Brisbane this 19th day of March 2009



Peter Henneken
Director-General, Department of Employment and Industrial Relations