

# Workplace Health and Safety Undertaking

*Workplace Health and Safety Act 1995*

Undertaking to the Chief Executive, Department of Employment and  
Industrial Relations given for the purposes of Part 5  
of the *Workplace Health and Safety Act 1995*

by

**Watpac Australia Pty Ltd**

## OFFER OF ENFORCEABLE UNDERTAKING

### 1 Background

- 1.1 Watpac encloses a submission for the Director-General of the Department of Industrial Relations to accept an enforceable undertaking at Annexure A.
- 1.2 Watpac acknowledges the decision whether to accept an undertaking is at the sole discretion of the Director-General. As outlined in the reasons above, Watpac submit that the Director-General should, in order to promote occupational health and safety, accept Watpac's offer for an enforceable undertaking.
- 1.3 Watpac acknowledges that as a minimum, the Department may publish a 'Notice of Acceptance' in an appropriate newspaper.
- 1.4 Watpac acknowledges that their failure to comply with the enforceable undertaking may result in a penalty of 5,000 penalty units (\$375,000).

### 2 Incident

- 2.1 On 21 August 2004 [REDACTED] IS 42 [REDACTED] was struck by falling signage following a collision between a FAVCO 1000 crane (the crane) and a SCHWING concrete placing boom (the concrete placing boom) at the Queens Plaza site, Corner Queen, Edward and Adelaide Streets Brisbane.

- 2.2 A section of the jib-mounted "WATPAC" sign became dislodged when the jib of the crane came into contact with the fifty metre satellite concrete pump. The "PAC" section of the "WATPAC" sign fell to the deck and hit the pump hoseman, [REDACTED] IS 42 causing him to suffer serious leg injuries.
- 2.3 The concrete pumping system was owned and operated by Specialised Concrete Pumping Pty Ltd (Specialised Concrete Pumping). The concrete placing boom was being controlled by Mr Leigh Pridmore and [REDACTED] IS 42 who are employees of Specialised Concrete Pumping.
- 2.4 The crane was owned and operated by a subcontractor, SACE Cranes & Rigging Pty Ltd (formerly known as SECA Cranes & Rigging Pty Ltd) (SACE Cranes). At the time of the incident the crane was being operated by Mr John Macey, who was employed by Western Rigging Pty Ltd (Western Rigging) and engaged by SACE Cranes.

### 3 Alleged contravention

- 3.1 Workplace Health and Safety Queensland (WHSQ), alleges two contraventions contrary to the *Workplace Health and Safety Act 1995* (the Act) occurred.
- 3.2 Firstly, it is alleged that on 21 August 2004, Watpac, being a person on whom a workplace health and safety obligation prescribed by section 28(3) of the Act is imposed, did fail to discharge the obligation contrary to section 24 of the Act, in that being an employer, Watpac did fail to ensure other persons were not exposed to risks to their health and safety arising out of the conduct of the employers business or undertaking (the first alleged breach).
- 3.3 It is alleged:
- (a) The 'other' is [REDACTED] IS 42
  - (b) The 'workplace' is Queens Plaza site, Corner Queen, Edwards and Adelaide Streets, Brisbane.
  - (c) The 'risk' is the risk of injury, including the risk of an amputation injury to the left lower leg of [REDACTED] IS 42
  - (d) The 'source' of the risk emanates from the use of a plant namely a FAVCO 1000 crane and a SCHWING concrete placing boom.
  - (e) That as a consequence of the failure to discharge the workplace health and safety obligation [REDACTED] IS 42 [REDACTED] IS 42 sustained grievous bodily harm.

3.4 Secondly, and in the alternative, it is alleged that on 21 August 2004, Watpac, being a person on whom a workplace health and safety obligation prescribed by section 29A of the Act is imposed, did fail to discharge the obligation contrary to section 24 of the Act, in that being a person who conducts a business or undertaking, Watpac did fail to ensure the workplace health and safety of each person who performs a work activity for the purposes of the business or undertaking (the second alleged breach).

3.5 It is alleged:

- (a) The 'other' is [REDACTED] IS 42
- (b) The 'workplace' is Queens Plaza site, Corner Queen, Edwards and Adelaide Streets, Brisbane.
- (c) The 'risk' is the risk of injury, including the risk of an amputation injury to the left lower leg of [REDACTED] IS 42
- (d) The 'source' of the risk emanates from the manner of use of plant namely a FAVCO 1000 crane and a SCHWING concrete placing boom.
- (e) That as a consequence of the failure to discharge the workplace health and safety obligation [REDACTED] IS 42 [REDACTED] IS 42 sustained grievous bodily harm.

#### **4 Acknowledgement**

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

#### **5 Statement of regret**

5.1 Watpac regrets that the alleged breach resulted in injury. Watpac is remorseful and has demonstrated its remorse for the alleged breach by seeking to achieve positive performance improvements within the construction industry.

5.2 Subsequent to the incident Watpac took special steps to ensure that the needs of [REDACTED] IS 42 and his family were met. Watpac has continued on an ongoing basis to monitor the progress of [REDACTED] IS 42. Examples include:

- (a) maintaining ongoing contact with Paul Keenan, OH&S Manager for Specialised Concrete Pumping (the employer), on the progress of [REDACTED] IS 42

- (b) immediately after the incident Watpac made the necessary flight and accommodation arrangements for [REDACTED] IS 42 to fly to Brisbane from Perth to be with [REDACTED] IS 42. Watpac met the cost of these arrangements and associated expenses.
- (c) senior management from Watpac visited [REDACTED] IS 42 in hospital after his surgery to express their support for him and to ensure that all of his needs were being met.

## **6 Assurance about future behaviour**

- 6.1 Watpac will ensure that it takes all reasonable steps to ensure that persons in the future are not exposed to risks to their health and safety arising out of the conduct of Watpac's business or undertaking, pursuant to section 28(3) of the Act.
- 6.2 Watpac will take all reasonable steps to ensure the workplace health and safety of each person who performs a work activity for the purpose of the business or undertaking of Watpac, pursuant to section 29A of the Act.
- 6.3 The undertakings provided below cumulatively demonstrate a commitment by Watpac to deliver benefits beyond compliance.

## **7 General undertakings**

- 7.1 Watpac will address the alleged contravention by:
  - (a) Ensuring an appropriate system of anti-collision for cranes working in close proximity to each other, and interfacing cranes with other plant through planning, risk management principles, appropriate siting strategies, and other controls.
  - (b) Ensuring crane crews (i.e. crane operators and doggers) and other plant operators are competent.
  - (c) Establishing and maintaining a suitable system of communication between relevant parties that identifies lifting/pouring schedules (pre commencement), and provides continuous communication during lifting operations.
  - (d) Establishing appropriate procedures for lifting/pouring operations (where clearances between units cannot be achieved through other means) and ensuring that this procedure is:
    - (1) Communicated to all relevant parties; and

- (2) The adequacy of the procedure is monitored and the procedure updated as required.
- (e) Ensuring compliance with the system/procedure is reviewed.

## 8 Specific (beyond compliance) undertakings

### 8.1 Benefits to workers

- (a) Within 3 months of the signing of the undertaking Watpac will commence providing further refresher training to all relevant workers (dogmen and crane drivers) on anti-collision controls. This training will be provided by the Construction Skills Training Centre. The training will include:

- legislative changes; and
- new technology; and
- licensing changes; and
- collision prevention; and
- usage of load charts; and
- work method statements; and
- use of fall arrest and travel restraint systems including Watpac's rescue procedures; and
- inspection and selection of slings and chains.

Further, within 12 months of the signing of the undertaking Watpac will again provide further refresher training to all relevant workers (dogmen and crane drivers) on anti-collision controls. This training will be provided by the Construction Skills Training Centre. The training will include:

- legislative changes; and
- new technology; and
- licensing changes; and
- multiple crane lifts; and
- crane stability; and

- allowable duties for license classes; and
- use, inspection and selection of flexible steel wire rope; and
- working around services and use.

This training is a significant beyond compliance commitment because refresher training of this type is only required to be conducted every 3 years. This will lead to improved safety outcomes for all workers.

Estimated value of \$19,600

- (b) Watpac agree to provide 3 special training sessions to all of Watpac's health and safety officers in crane safety within 12 months of the signing of the undertaking. The training will include:

- legislative changes; and
- new technology; and
- licensing changes; and
- collision prevention
- usage of load charts; and
- work method statements; and
- use of fall arrest and travel restraint systems including Watpac's rescue procedures; and
- multiple crane lifts; and
- crane stability; and
- allowable duties for license classes; and
- use, inspection and selection of flexible steel wire rope; and
- working around services; and
- use, inspection and selection of slings and chains.

This training is significantly beyond compliance because it is not training that is required to be provided to health and safety officers. This will lead to improved safety outcomes for all workers.

Estimated value of \$18,986

(c) Watpac will train approximately 20 Watpac site managers as Workplace Health and Safety Officers within 12 months of the signing of the undertaking. The training will include:

- providing advice on workplace health and safety; and
- managing health and safety hazards and risks in the workplace; and
- managing workplace incidents; and
- managing health and safety in construction workplaces.

The 9 day training course is significantly beyond compliance because it is not a requirement for site managers to be trained as health and safety officers. The practical effect of this training will be that for the majority of Watpac construction sites there will be at least 2 persons on the site who are WHSO qualified at the site; the site manager and the designated WHSO. This will lead to improved safety outcomes for all workers.

Estimated value of \$157,328

(d) Watpac conducts rostered day off OH&S Training (RDO) for all project and office staff on a monthly basis. Watpac will train Watpac staff in crane safety through the Code of Practice for Tower Cranes, and the Code of Practice for Mobile cranes, specifically honing in on anti collision controls and crane siting and rescue procedures for crane workers. The staff to be trained will include:

- Estimators
- Building Cadets
- Foremen/Supervisors
- Site Managers
- Project Managers
- Construction Managers
- Divisional Managers.

This is significantly beyond compliance because the training to be provided is beyond that required to be provided to project and staff workers. This will lead to improved safety outcomes for all workers.

Estimated value of \$22,577.50

Benefits to industry

- (e) The undertakings at 8.1(a) – (d) above will also provide significant crane safety benefits to industry because the crane safety expertise which the workers and staff develop will be of benefit for future construction projects and employers in ensuring crane safety.
- (f) Watpac will develop a special Anti-Collision Controls Industry Flyer within 6 months of the signing of the undertaking which will be made available for distribution by the Construction, Safety Managers and Officers Association (“CSMOAG”). The flyer will be a synopsis of both existing codes with regards to anti collision controls. This will be of educative benefit to industry because the membership of the CSMAOG constitutes the majority of construction safety professionals in Queensland.

Estimated value of \$5,000

- (f) Watpac will develop a pocket size manual for crane drivers and project staff within 12 months of the signing of the undertaking. This manual will be provided to the CSMOAG for distribution and for the use and benefit of industry at large. The manual will be a reference tool for on the job usage and will include topics such as:
  - Hand signals
  - Interfacing
  - Dual lifting
  - Weights of materials
  - Rules of thumb
  - Calculations

Estimated value of \$10,000

8.2 Benefits to community

- (a) Watpac will, within 1 month of the signing of the undertaking, provide a \$5,000 donation to the Royal Brisbane Hospital which treated [REDACTED] IS 42

Estimated value of \$5,000

- (b) Watpac will, within 1 month of the signing of the undertaking, provide a \$10,000 donation to Youngcare Ltd to apply to existing and/or future residential construction projects, at Youngcare Ltd's discretion, for the provision of appropriate access and egress and ergonomic facilities for residents.

Estimated value of \$10,000

8.3 Publication of enforceable undertaking

- (a) Informing employees and the community of Watpac's enforceable undertaking as a result of the alleged contravention:

- (1) Watpac agree to inform the Watpac project staff employed in Queensland about the enforceable undertaking. Each employee will be informed of the terms of the enforceable undertaking at a special training session.
- (2) Notice of the enforceable undertaking, along with the terms of the undertaking will be provided to employees by way of information meetings at Watpac head office.
- (3) The outcomes of the enforceable undertaking will be published on Watpac's intranet site.

**9 OHS Management System Audits**

- 9.1 As Watpac has a formal OHS management system in place, it will commit to third party auditing of the workplace against, AS/NZ 4801:2001 *Occupational Health and Safety Management System – Specification with guidance for use*. This initial audit shall be undertaken within three months of signing of the undertaking. An additional further audit of the workplace against the above standard shall also be undertaken. The second audit will be required within 12 months of the signing of the undertaking.
- 9.2 Auditors selected to perform the OHS management system audits will be certified by a certification body accredited by JAS-ANZ to ISO/IEC 17024:2003 General Requirements for bodies operating the certification of persons. Auditors listed on the RABQSA OH&S Auditor Register would meet this standard.
- 9.3 Audit reports shall be forwarded by the auditor to the company, with a copy also sent direct to the General Manager, Workplace Health and Safety Queensland.
- 9.4 Within 90 days of receipt of the auditor's written report Watpac will advise the General Manager, Workplace Health and Safety Queensland of their intended action in addressing each of the report's recommendations.

Estimated value of \$17,604.00

**10 Costs**

- 10.1 Watpac agree to pay the following costs.
  - (a) Investigation Costs in the amount of \$8,000, representing the reasonable investigation costs arising out of the incident.
  - (b) Administration costs of DIR in considering Watpac's application for an enforceable undertaking. \$800
  - (c) Administration costs of DIR in monitoring compliance with this undertaking. \$1,335
  - (d) Administration costs of DIR in publishing the Notice of Acceptance. \$1,400

The total amount of \$11,535.00 will be paid within 30 days after receipt of the department's invoice.

**11 Audit of undertakings**

- 11.1 Watpac will use an independent auditor certified by JAS-ANZ or a similar certification body to monitor and review conformance with this undertaking by the Company at six monthly intervals throughout the term of the undertaking. An audit report is to be provided to the Company and to the General Manager Workplace Health and Safety Queensland within 30 days of the compliance report being completed.
- 11.2 The first compliance audit under clause 11.1 will commence six months after signing of this undertaking. The reports to follow will then be undertaken at the six monthly intervals until all requirements of the enforceable undertaking have been completed and reported.
- 11.3 Watpac estimates that the costs associated with carrying out these audits will be in the order of **\$5,000**

**Dated at Brisbane this 8th day of March 2007**



Errol Edwards  
General Manager – Construction  
Watpac Australia 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.**

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

Dated at 2012 this ..... day of May 2007