

# **ENFORCEABLE UNDERTAKING**

*Part 11, Work Health and Safety Act 2011*

The commitments in this undertaking are offered to the regulator by

**Boyne Smelters Limited**  
(the person)

**ACN 010 061 935**

## COMMENCEMENT OF UNDERTAKING

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. The undertaking and its enforceable terms will commence to operate as a legally binding commitment on the part of the person from the date it is given.

## DEFINITIONS

**BSL** means Boyne Smelters Limited.

**Contravention** means an alleged contravention.

**Electrical safety undertaking or undertaking or enforceable undertaking** means a written undertaking given under Part 3 of the *Electrical Safety Act 2002* by a person in connection with a matter relating to a contravention or alleged contravention by the person of the *Electrical Safety Act 2002* and includes all of the contents of that document including the general information, general and enforceable terms.

**OIR** means the Office of Industrial Relations.

**OHSMS** means an Occupational Health and Safety Management System.

**person** means an individual who or a legal entity which has a duty under the *Work Health and Safety Act 2011*, the *Electrical Safety Act 2002* or the *Safety in Recreational Water Activities Act 2011* and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, individuals or corporations as trustees of trusts, statutory corporations, public authorities, the State of Queensland, the Commonwealth of Australia and other Australian states and territories.

**Recreational water activities health and safety undertaking or undertaking or enforceable undertaking** means a written undertaking given under Part 4 of the *Safety in Recreational Water Activities Act 2011* (in conjunction with Part 11 of the *Work Health and Safety Act 2011*) by a person in connection with a matter relating to a contravention or alleged contravention by the person of the *Safety in Recreational Water Activities Act 2011* and includes all of the contents of that document including the general information, general and enforceable terms.

**regulator** means the Deputy Director-General, Office of Industrial Relations, being the person appointed by the Governor in Council as regulator under the Safety Acts.

**safety Acts** means *Work Health and Safety Act 2011*, *Electrical Safety Act 2002* and *Safety in Recreational Water Activities Act 2011*.

**Very Serious Injury** means, for this publication, is an injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation a major amputation of a limb or part of the body – for example amputation above the knee or elbow.

**WHS Act** means the *Work Health and Safety Act 2011*.

**WHS undertaking or undertaking or enforceable undertaking** means a written undertaking given under Part 11 of the *Work Health and Safety Act 2011* by a person in connection with a matter relating to a contravention or alleged contravention by the person of the *Work Health and Safety Act 2011* and includes all of the contents of that document including the general information, general and enforceable terms.

## PRIVACY STATEMENT

The OIR respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of an undertaking given to the regulator under Part 11 of the *Work Health*

and Safety Act 2011, Part 3 of the *Electrical Safety Act 2002* or Part 4 of the *Safety in Recreational Water Activities Act 2011*. This information will be managed within the requirements of the current state government privacy regime.

The OIR may publish the undertaking and information contained in it for purposes identified in the undertaking or for other appropriate purposes in publications such as newspapers and on its website. The OIR may be required to disclose personal information to other agencies such as the Queensland Police Service and WorkCover in accordance with enforcement activities that may be conducted as part of an investigation. Information on our privacy policy is available at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au).

## SECTION 1: GENERAL INFORMATION

### 1.1 Details of the person giving the undertaking

**Nominated person:** Boyne Smelters Limited

**Street address:** Handley Drive, Boyne Island, Qld, 4680

**Mailing address:** PO Box 524, Gladstone Qld, 4680

**Telephone:** 1800 886 414

**Email address:** [bsl.info@pacificaluminium.com.au](mailto:bsl.info@pacificaluminium.com.au)

**Legal structure:** BSL is an incorporated joint venture

**Type of business:** Aluminium smelter

**Commencement date:** 1982

**Workers:** Full time: 980  
Part Time: 19  
Casual: 0

**Products and services:** Aluminium (Ingot and T-Bar)

### 1.2 Detail the contravention

BSL allegedly failed to comply with section 19(1) of the WHS Act in that it did not ensure, so far as is reasonably practicable, the health and safety of workers engaged, or caused to be engaged, by BSL, while the workers were at work in the business or undertaking and that failure exposed an individual to a risk of death or serious injury. It is alleged that BSL's actions are contrary to section 32 of the WHS Act.

### 1.3 Detail the events surrounding the contravention

On 24 September 2016, a worker employed by BSL was operating a furnace containing molten metal. While located on the furnace deck beside the furnace, the worker was twice struck by molten material ejected from the furnace.

### 1.4 Detail the enforcement notices issued that relate to the contravention detailed in term 1.2

☒ Not Applicable

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice

**1.5 Detail the injury sustained or illness suffered by worker/s or other/s as a consequence of the contravention detailed in term 1.2**

Based on information contained in the Complaint and Summons, and absent specific medical evidence, BSL understands the injury suffered by the injured worker to be superficial, partial and full thickness burns to the worker's chest, lower stomach, lower back and buttocks.

**1.6 Detail the employment status and the workers' compensation or other insurance status regarding the worker/s who sustained injury or suffered illness as detailed in term 1.5**

The worker/s detailed is:

- an employee/s of the entity ☒
- a self-employed worker/s ☐
- other - ☐ Enter details of other here
- not applicable ☐

Status: The injured worker is unable to return to their pre-injury role. In accordance with the BSL return to work process, and in consultation with the worker and their treating specialists, BSL considered options for re-deployment, and an alternate role was identified. The worker commenced a trial of this role in May 2018 and is now in this position on a full-time basis.

**1.7 Detail the support provided or proposed by the person to the injured worker/s and/or family or other/s**

Date	Description of support	Comments
25/9/16	Flights for the worker's partner to join the worker while in hospital	
25/9/16	Local support in Brisbane via BSL management	Support was provided over a number of hours
25/9/16	Provision of rental car and parking for worker's partner	
29/9/16	Visit by the worker's crew leader to support and see what further support the worker may need	Support was provided over a number of hours
30/9/16	Local support in Brisbane via BSL management	Support was provided over a number of hours
31/10/16	Provision of bedside telephone and TV for the worker	
23/1/17 - present	Return to work program commenced. BSL provided skills development for the	

Date	Description of support	Comments
	worker in the training & procedure review department as well as in the warehouse.	
19/3/18	Provision of an Independent Medical Examiner to determine work capabilities	
24/9/16 – present	The worker's full salary and shift allowances have been maintained throughout since the incident.	

**1.8 Detail any current OHSMS implemented and maintained by the person**

BSL has a Health, Safety & Environment (HSE) Management System which contains 14 elements, including:

- 1 Policy;
- 2 Leadership and engagement;
- 3 Operational control;
- 4 Training, competency and awareness;
- 5 Supplier and contractor management;
- 6 Hazard and risk management;
- 7 Management of change;
- 8 Incident management;
- 9 Performance assessment and audit;
- 10 Documentation and document control;
- 11 Measuring and monitoring, data and records;
- 12 Legal and other requirements;
- 13 HSE management improvement planning; and
- 14 HSE management review.

The HSE Management System comprises a number of policies, procedures and specifications to maintain safety in the workplace.

**1.9 Detail the level of auditing undertaken on the OHSMS referred to in term 1.8, including compliance audits and audit frequency**

The elements of the HSE Management System are audited annually. Pacific Aluminium conducts twice yearly audits of BSL's molten materials and electrical standards as against the applicable Pacific Aluminium standards.

In addition, BSL has a number of employees who are also Standard Champions (in addition to their ordinary roles). Standard Champions are assigned to the most important standards. Part of their role is to audit against the standards annually, and provide feedback to the management team.

The BSL HSEMS is internally audited under the ISO 14001 and ISO9001 standards annually as part of BSL's audit program.

Finally, Rio Tinto conduct Business Conformance Audits every 2 years. Audits against the Rio Tinto Health, Safety, Environment, Communities and Social Performance standards are a significant component of Rio Tinto's assurance processes.

**1.10 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking**

Consultation for this undertaking has included:

- the BSL Management team;
- the Manager - Carbon;
- Superintendent – Safety; and
- Operational and maintenance workers

**1.11 Detail the rectifications to the workplace or work practices made as a result of the contravention and events detailed in terms 1.2 and 1.3 and the enforcement notices issued as detailed in term 1.4**

The following items of rectification have been made as a result of the alleged contravention:

**Systems, Policies, Procedures**

- 1 Updating and amending procedures applicable to furnace operations.
- 2 Introducing new systems and controls in relation to emergency response processes for furnace operations.
- 3 Introducing detailed training documents and workbooks covering all aspects of furnace control.
- 4 Reviewing and updating safety procedures relating to furnace operation and high risk tasks.
- 5 Reviewing and updating emergency response systems for furnaces, including the development of a schedule for review and emergency response drills.
- 6 Uploading the furnace safety and response plans to the intranet to allow for easy access by workers.
- 7 Changing requirements for number of team members and attendance within immediate proximity of the furnace deck during all stages of furnace operation
- 8 Requiring data in relation to key processes to be logged
- 9 Developing a risk matrix stipulating location requirements for team members when furnaces are in operation.
- 10 Changing the team structure and production plans to ensure team members are only working during routine hours.

**Design / Infrastructure elements**

- 11 Changing the design of furnace cabinets on the furnace deck to improve vision and reduce exposure to molten metal.
- 12 Introducing full furnace standard PPE specifically designed for exposure to cast iron.
- 13 Installing video cameras in all high risk operational areas which, while not monitored 24 hours each day, are live streamed and recorded.

- 14 Installing a number of safety showers at the same height as the furnace deck.
- 15 Installing e-stop buttons to shutdown the furnaces and remove all power in the vicinity of the safety showers.

**Total amount spent on rectification**

**\$ 498,380.00 (estimated)**

## SECTION 2: GENERAL TERMS

The person acknowledges and commits to the general terms set forth in the sub-terms below.

### **2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2**

BSL acknowledges that the regulator has alleged that BSL has contravened provisions of the WHS Act as detailed in term 1.2 of this undertaking.

### **2.2 Statement of regret that the contravention occurred and the reasons the person considers this undertaking is a more appropriate response to the contravention than a court imposed sanction**

BSL deeply regrets the incident that occurred on 24 September 2016 and is taking active steps to minimise the risk of future incidents of this nature, by taking the steps outlined in the undertaking.

BSL is genuinely committed to the health and safety of its workers and other people in the workplace in accordance with its obligations under the WHS Act.

BSL are fully committed and supportive of this enforceable undertaking which will enable the business to further improve the awareness of their personnel through the implementation of greater control measures, processes and procedures. This will ensure an overall improvement of health and safety within the business and across other worksites, as well as within the community.

### **2.3 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur**

BSL is committed to ensuring the behaviours, activities and other factors that caused or led to the alleged contravention will not reoccur. This commitment is demonstrated, through the rectifications following the incident (as detailed in section 1.11), and the implementation of the activities detailed in section 3 of this undertaking.

### **2.4 Acknowledgment of the guidelines published by the regulator for the acceptance of an undertaking**

On behalf of BSL, the following has been read and understood:

*Guidelines for the acceptance of an enforceable undertaking*

Version: 1 Dated: November 2017

### **2.5 Acknowledgement that this undertaking may be published and publicised**

2.5.1 BSL acknowledges that the undertaking may be published on the OIR's website and referenced in OIR material.

2.5.2 BSL acknowledges that the undertaking may be publicised in newspapers.

**2.6 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities**

- 2.6.1 BSL has the financial ability to comply with the terms of this undertaking and have provided evidence by way of a letter from General Manager Finance – Pacific Operations to support this declaration.
- 2.6.2 In the event of impending liquidation or sale of the entity, BSL will advise OIR of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

**2.7 Statement regarding person's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking**

BSL does not have any relationships with the suppliers of goods or services as contemplated under this undertaking.

**2.8 Statement regarding Intellectual Property Licence**

- 2.8.1 Subject to paragraph 2.8.2 below, BSL grants OIR a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any materials developed as a result of this undertaking and in respect of which BSL owns the intellectual property rights.
- 2.8.2 The licence granted by BSL under section 2.8 does not extend to granting a licence to use third party proprietary material that may be required to use the material developed by BSL as a result of this undertaking.

**2.9 Acknowledgement that the person may be required to provide a statutory declaration**

OIR has requested a statutory declaration outlining details of any prior convictions, subject to any local legal constraints such as spent conviction legislation, or findings of guilt under the safety Acts.

☐ YES ☒ NO

The statutory declaration is attached (if applicable)

☐ YES ☒ NO

**2.10 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking**

- 2.10.1 It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.
- 2.10.2 Evidence to demonstrate compliance with the terms will be provided to OIR by the due date for each term.
- 2.10.3 The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by the regulator, that this undertaking has been completely discharged.
- 2.10.4 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 enforcement action.
- 2.10.5 It is acknowledged that OIR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to OIR.
- 2.10.6 It is acknowledged that OIR may initiate additional compliance monitoring activities, such as inspections, as considered necessary at OIR's expense.



2.10.7 It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to OIR, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

**2.11 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking**

BSL and its officers are committed to meeting their obligations under the WHS Act and ensuring, so far as is reasonably practicable, that risks to health and safety are managed through BSL's occupational health and safety management system. BSL and its officers will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking through:

- 1 **Effective toolbox meetings** - leaders are actively coached in the process by their leaders to ensure that toolbox meetings are effective and have engaged the team to work safely on the shift ahead.
- 2 **Visible and engaging leadership** - all leaders are encouraged to spend time in the workplace, observing the work being done, addressing issues and concerns, and coaching team members to seek safer ways of doing their work.
- 3 **Risk assessment** - team members use Take 5 as a tool to identify hazards and controls prior to a task commencing. This is supported by annual training in hazard identification where additional skills are shared and applied.
- 4 **Critical risk management** - a critical risk management process is used to verify that the most important controls required to prevent a fatality are in place prior to a task commencing. By verifying that the controls are in place, the risk of fatality is reduced.
- 5 **Risk register review** - an annual review of the Department risk register occurs. This process is aimed at identifying areas of highest risk, and developing actions that can reduce our exposure to the risk.

A Safety Interaction process is also in place. This is a process that requires a leader to observe a task being performed, and engaging in a discussion with the team member. The discussion is aimed at reaching agreement on safer ways to complete a task.

Additionally, since the Incident, BSL has developed and started delivery of both Leading for Safety and Leading for Success training programs. These programs are specifically targeted at improving leadership at all levels of the organisation to deliver a people and safety first culture. The leading for safety program is run by the senior leaders of the organisation. The wider Rio Tinto Leading for Success program commenced in 2018 and will be ongoing to support current leaders and new leaders as they enter the organisation.

In addition, to improve the skill sets of all its team members, BSL runs Hazard Awareness training each year. This program focuses on how to identify hazards and the tools that can be used to remove or control the hazard. This program highlights how these tools can be used as effectively at home as they can in the workplace. This program is run by the BSL leaders.

BSL is investing in developing the skills of its HSE representatives through providing training in OHS to Cert IV or equivalent level.

BSL is targeting First Aid training in teams and areas where there is the potential need of immediate response in the case of an emergency prior to arrival of the Site's Emergency Response Team.

**2.12 A commitment regarding linking the promotion of benefits by the person to this undertaking**

BSL are committed to linking the promotion of any benefit provided for under this undertaking to the enforceable undertaking. The enforceable undertaking will be acknowledged as the source of initiatives in reports, publications and presentations to internal and external forums.

## SECTION 3: ENFORCEABLE TERMS

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and a minimum cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

### 3.1 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties

BSL commits to disseminating information about this EU to all its employees and other relevant stakeholders. This dissemination will occur through the following processes:

- 1 General Managers All Employee Brief – this is a personal brief that will occur within three months of acceptance of the EU. The briefing will occur within 3 months of acceptance of this EU.
- 2 Communication report to the BSL Board members each Board meeting. The initial communication will occur within 6 months of acceptance of this EU and each 12 months thereafter until completion of this EU.
- 3 Progress updates will occur through regular site HSE meetings until completion of the terms of this EU. Updates will be provided on a 6 monthly basis.

### 3.2 Activities to be undertaken to promote the objects of the safety Acts that will deliver benefits for workers/others

	Activities	Minimum cost	Timeframe
3.2.1	<p><b>Implementation of Air-fed Hoods</b></p> <p>BSL will implement 24 Air-fed hoods to personnel operating in furnace areas. Air-fed hoods will replace the current respirators (which have been assessed as providing industry standard protection for the work environment) used by staff in the Rodding Room and work by drawing cool air in and then releasing that cool streamed air onto the face of the worker.</p> <p>Industry standard is to provide a respirator and filter medium that protects against the aggravating agents that arise from the operational process. These respirators generally are only designed for protection against the aggravating agent and not necessarily designed to cater for the thermal extremes various climates provide. Air-fed hoods add airflow around the head during use, creating a cooling effect. This makes more comfortable the use in hot operational environments especially those exacerbated by warmer climates as experienced in Boyne Island, further reducing the risk of the likelihood of heat stress.</p> <p>The Air-fed hoods have a newer designed mouthpiece enabling better and clearer</p>	\$67,200	6 months from acceptance

	Activities	Minimum cost	Timeframe
	<p>communication further reducing the risk of events that could arise out of misunderstood communication. The Air-fed hoods also have a fire retardant shroud providing further protection against potential molten material splashes.</p> <p>These Air-fed hoods would be purchased and issued to all team members that work in the areas of the Rodding Operations buildings who could have direct exposure to molten material during a shift. These Air-fed hoods would replace the current respirators worn by team members. The Air-fed hoods go beyond industry-standard and are above compliance.</p> <p>All staff that will be supplied with Air-fed hoods will be trained. This training will be of 15 minutes duration and will follow the manufacturer's recommendations. The BSL Specialist Hygiene will provide guidance on the training and how it will be completed. Training records will be maintained.</p> <p><b>Benefits</b></p> <p>The benefits to workers include:</p> <ul style="list-style-type: none"> <li>• Significantly improved communication ability between team members through replacement of respirators</li> <li>• Relief for the head and face of hot working environment via a positive pressure fan and filter system</li> <li>• Improved PPE coverage for molten material, air fed hoods come with a fire-retardant shroud for neck and part of shoulders</li> </ul> <p>The purpose of this device is to provide appropriate cooling to personnel operating in the high heat exposure furnace areas. This will reduce the risk of heat stress for workers.</p> <p><b>Evidence</b></p> <p>BSL will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> <li>• copies of invoices; and</li> <li>• proof of payment.</li> </ul>		
3.2.2	<p><b>Installation of laser measurement for furnace device</b></p> <p>BSL will install a laser measurement device which will allow workers to ascertain the temperature of the molten metal in the furnace. This device allows the temperature of the furnace to be taken remotely and removes the requirement for</p>	\$ 70,540	12 months from acceptance

	Activities	Minimum cost	Timeframe
	<p>crew members to manually measure the temperature at the furnace.</p> <p>All Rodding Room staff will be provided training in the operation of this device. On-going inspections will be undertaken to ensure the device functions as designed.</p> <p><b>Benefit</b></p> <p>The benefits to workers include:</p> <ul style="list-style-type: none"> <li>• Removing interaction between workers and the molten metal in the furnaces by on average 4 times per shift</li> <li>• Inbuilt process control to restrict power input into the furnaces based on measured temperature</li> <li>• Controlling the maximum power input based on temperature reduces the risk profile to team members when in the vicinity as it reduces the likelihood for over powering of a furnace</li> </ul> <p>The purpose of this device is to remove interaction between workers and the molten metal in the furnaces.</p> <p><b>Evidence</b></p> <p>BSL will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> <li>• copies of invoices; and</li> <li>• proof of payment.</li> </ul>		
3.2.3	<p><b>Installation of a timer system to reduce power to 'hold' level</b></p> <p>BSL will install a timer system to induction furnaces to reduce the furnace power to a 'hold' level after 15 minutes. This alarm will be installed to alert operators if the furnace power has been left on for greater than 15 minutes to prevent over powering of the furnace.</p> <p>All Rodding Room staff will be provided training in the operation of this device. On-going inspections will be undertaken to ensure the device functions as designed.</p> <p><b>Benefit</b></p> <p>The benefits to workers include:</p> <ul style="list-style-type: none"> <li>• Further level of control that would prevent inadvertent addition of power to the furnaces and reduce the exposure and risk for team members operating in the vicinity</li> <li>• Reduction in the likelihood of over powering a furnace</li> </ul> <p><b>Evidence</b></p> <p>BSL will provide documented evidence to the regulator which demonstrates the</p>	\$ 32,600	12 months from acceptance

	Activities	Minimum cost	Timeframe
	Installation of the timer system at the completion of this deliverable.		
3.2.4	<p><b>Installation of remote monitoring of furnaces</b></p> <p>BSL will install devices to permit the furnaces, in both Rodding Rooms, to be remotely monitored and operated from a control room. This will include the installation and use of cameras. These cameras will be available from nearby control rooms location at both Rodding Rooms and will be monitored by team members during times of furnace operation.</p> <p>The installation will occur according to the below timeline:</p> <ul style="list-style-type: none"> <li>• Pre-feasibility by completed 31 August 2019</li> <li>• Option development completed by 31 October 2019</li> <li>• Feasibility completed 31 January 2020</li> <li>• Design and scope completed 30 April 2020</li> <li>• Construct and implementation completed by 31 March 2021</li> <li>• Commissioning completed by 31 April 2021</li> <li>• Reliable use demonstrated by 31 May 2021</li> </ul> <p>Changes to the operational procedures would occur and re-training of the operators, and this will become a part of the routine competency assessment program already in place.</p> <p><b>Benefits</b></p> <p>The benefits to workers include:</p> <ul style="list-style-type: none"> <li>• Allowing team members to monitor each furnace individually in a more detailed way than existing area cameras,</li> <li>• Individual cameras would also mean that troubleshooting and supervision of each furnace could occur from a location that was air-conditioned and not directly in the vicinity of the operating furnaces.</li> <li>• Minimising workers' interaction with the molten metal in the furnaces.</li> </ul> <p><b>Evidence</b></p>	\$ 60,500	24 months from acceptance

	Activities	Minimum cost	Timeframe
	<p>BSL will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> <li>• copies of invoices; and</li> <li>• proof of payment.</li> </ul> <p>BSL can, on request, provide the regulator with a demonstration of the system following installation.</p>		
3.2.5	<p><b>Installation of an emergency trip button in the safety showers</b></p> <p>BSL will install an emergency trip button in the safety showers. When the safety shower is used, a building alarm will sound and the power will be tripped to the induction furnaces. This will eliminate the potential for any electrical power being provided to the furnaces, and prevent any risk of the molten material overheating in the event of a person requiring the use of an emergency shower.</p> <p><b>Benefits</b></p> <p>The benefits to workers include:</p> <ul style="list-style-type: none"> <li>• Ensuring that team members or personnel assisting are able to remove the hazardous energies that are present in the operation of the induction furnaces</li> <li>• Ensuring that emergency shutdown of the furnaces can occur at the same time as operation of the safety showers, so that assistance can be provided in the event of a safety shower being required without having to leave the area to safely shut down the furnaces. Ensuring that the local area can be evacuated as quickly as possible in the event of an emergency.</li> </ul> <p><b>Evidence</b></p> <p>BSL will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> <li>• copies of invoices; and</li> <li>• proof of payment.</li> </ul>	\$ 19,500	6 months from acceptance
<b>Total minimum cost of benefits for workers/others</b>		<b>\$250,240</b>	

### 3.3 Activities to be undertaken to promote the objects of the safety Acts that will deliver benefits for industry

	Activities	Minimum cost	Timeframe
3.3.1	<p><b>Developing and installing new technology</b></p> <p>BSL is designing a system whereby, if an emergency shower is activated, a communication is automatically sent to BSL's site emergency services team. The base concept for this system has been conceived by BSL however BSL will work with two local contractors to design and implement the system.</p> <p>This technology can be rolled out to other aluminium smelters. To raise this at an industry level, BSL will conduct presentations on this technology to the General Managers of other Pacific Aluminium sites. BSL will liaise with Workplace Health and Safety/OIR to have the presentation reviewed, prior to it being delivered to industry.</p> <p><b>Benefits</b></p> <p>The benefits to workers and the industry includes:</p> <ul style="list-style-type: none"> <li>• under any circumstance where the safety shower in the vicinity of the molten material areas on site were activated that emergency services personnel would be notified and respond as if there was an injury.</li> <li>• reducing the response time in the event of an emergency</li> </ul> <p><b>Evidence</b></p> <p>BSL will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> <li>• written confirmation presentation has taken place;</li> <li>• copies of invoices from external suppliers to assist in developing the technology; and</li> <li>• proof of payment.</li> </ul>	\$90,500	36 months from acceptance
3.3.2	<p><b>Evaluation report</b></p> <p>To assist the broader aluminium smelter industry, BSL will prepare a report evaluating the outcomes and impacts of the engineering controls set out in items 3.2.1 to 3.2.5 of this EU.</p> <p>BSL will provide this report to other smelters across Australia and New Zealand.</p> <p><b>Benefits</b></p> <p>The benefits to workers and the industry include sharing BSL's learnings regarding control measures, with a view to minimising any similar incidents from occurring in the future.</p>	\$0	An initial report prepared at 12 months post-acceptance with a follow-up report at 36 months post-acceptance.

	Activities	Minimum cost	Timeframe
	<b>Evidence</b> BSL will provide documented evidence to the regulator at the completion of this deliverable including a copy of the report.		
<b>Total minimum cost of benefits for Industry</b>		<b>\$90,500</b>	

**3.4 Activities to be undertaken to promote the objects of the safety Acts that will deliver benefits for community**

	Activities	Minimum cost	Timeframe
3.4.1	<p><b>Mental health peer support program to Men's Shed</b></p> <p>BSL has developed a peer support program to improve support for workers who may be experiencing mental health issues. The program operates by having certain staff (currently 40) trained as peer supporters. These staff are then available to provide confidential counselling and support to other staff who may be suffering or enduring personal problems. The support is provided on a completely confidential basis.</p> <p>Employees can volunteer to be peer supporters, with the peer supporters selected via an interview process. Successful candidates then attend a two day training course conducted by an external provider.</p> <p>Peer supporters receive ongoing professional supervision.</p> <p>To further this program into the wider community, BSL will partner with Men's Shed to provide peer supporters to its members.</p> <p>This Peer Support program has been showcased to the local community with overwhelming support. BSL will run this program again next year to showcase to other industries in the wider community.</p> <p><b>Costs</b></p> <p>The costs include an external provider to conduct a 2 day course to train new peer supporters. BSL will cover the cost of three courses.</p> <p><b>Evidence</b></p> <p>BSL will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> <li>• details of the content of the peer support program, including the presentation materials;</li> </ul>	\$ 23,360	24 months from acceptance



Activities	Minimum cost	Timeframe
<ul style="list-style-type: none"> <li>attendance records;</li> <li>copies of invoices; and</li> <li>proof of payment.</li> </ul>		
<b>Total estimated cost of benefits for the community</b>	<b>\$23,360</b>	

### 3.5 Agreement to pay the OIR's recoverable costs

3.5.1 BSL agrees to pay OIR's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the OIR invoice:

Recoverable costs	Amount
Administrative costs	\$3814.00
Legal costs	\$1500.00
Compliance monitoring costs	\$3410.00
Publication costs	\$560.00
<b>Total of OIR recoverable costs</b>	<b>\$9284.00</b>

### 3.6 Minimum spend

3.6.1 BSL acknowledges the minimum spend for this undertaking will comprise of the:

Estimated total value of	Minimum spend
Benefits to workers/others	\$250240
Benefits to Industry	\$90500
Benefits to community	\$23360
OIR recoverable costs	\$9284
<b>Estimated total minimum spend for the undertaking</b>	<b>\$373,384</b>

3.6.2 BSL agrees to spend any residual amount arising from the total minimum spend value not being met. Agreement on how to spend this residual will be sought from the regulator.

### 3.7 A commitment to maintain an OHSMS

3.7.1 BSL acknowledges there is a formal documented OHSMS acceptable to the regulator that satisfies the principles of AS/NZS 4804:2001 Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques, currently in place.

3.7.2 BSL commits to ensuring that the OHSMS remains compliant with the principles of AS/NZS 4804:2001 Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques.

### **3.8 A commitment to ensure the OHSMS is audited by third party auditors**

- 3.8.1 BSL acknowledges that the auditors selected to perform OHSMS audits must meet the qualification requirements as set by the regulator.
- 3.8.2 BSL commits to ensuring the OHSMS will be audited by certified third party auditors.
- 3.8.3 BSL acknowledges that details of the auditors' qualifications will be provided with audit reports submitted to OIR.
- 3.8.4 BSL acknowledges that costs associated with these audits will be met by BSL as part of the undertaking.
- 3.8.5 BSL commits to ensuring the OHSMS will be audited against criteria that meets the principles of *AS/NZS 4801:2001 Occupational Health and Safety Management Systems – Specification with guidance for use*, to verify the OHSMS meets the principles of *AS/NZS 4804:2001 Occupational health and safety management systems—General guidelines on principles, systems and supporting techniques*.
- 3.8.6 BSL acknowledges that the current OHSMS in place, as detailed in term 3.7.1 is acceptable to the regulator and commits to ensuring that an initial third party audit will be undertaken within three months of this undertaking being accepted.

### **3.9 A commitment to provide a copy of each finalised OHSMS audit report to OIR**

- 3.9.1 It is acknowledged that audit reports received from the auditor will be sent to OIR within 30 days of the audit along with written confirmation that the report has not been altered from the copy provided to the person by the auditor.
- 3.9.2 It is acknowledged that within 30 days of receipt of the auditor's written report, OIR will be advised of the intended actions for addressing each of the report's recommendations.

### **3.10 A commitment to implement the recommendations from third party audits**

- 3.10.1 BSL commits to ensuring the recommendations resulting from the first OHSMS audit, as detailed in 3.9.2 will be fully implemented and recorded as actioned by the auditor within the second OHSMS audit report, unless OIR grants an exemption due to the actions being unreasonable.
- 3.10.2 BSL commits to ensuring the recommendations resulting from the second OHSMS audit, as detailed in 3.9.2 will be fully implemented and recorded as actioned by the auditor within the third OHSMS audit report, unless OIR grants an exemption due to the actions being unreasonable.
- 3.10.3 BSL commits to ensuring the recommendations resulting from the third audit report, as detailed in 3.9.2 will be fully implemented within six months of receiving the third OHSMS report, unless OIR grants an exemption due to the actions being unreasonable.
- 3.10.4 BSL commits to providing a detailed action plan or statutory declaration by an authorised officer of BSL confirming recommendations arising from the third audit have been fully implemented, unless OIR grants an exemption due to the actions being unreasonable.

## **SECTION 4: EXECUTION**

This undertaking is given by the person on the date it is accepted by the regulator as set forth in section 5 below.


THE COMMON SEAL of

(Affix common seal)

Boyne Smelters LTD  
Company name

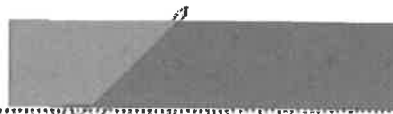
was affixed in accordance with the  
Corporations Act 2001 in the presence of

Richard Presley  
Name of Director

  
Signature of Director

And

Kellie Parker  
Name of Director/Secretary

  
Signature of Director/Secretary

on the 3rd day of June, 2019  
on the [DAY] day of [MONTH], 20[YEAR]

before me:

.....  
Signature of Witness

.....  
Signature of Witness in full


.....  
Witness address

.....  
Witness address

.....  
Witness address

SECTION 5. ACCEPTANCE

This undertaking is accepted by the regulator on the 15<sup>th</sup> day of July, 20 19

  
Signature of regulator

CRAIG ALLEN  
Name of regulator

Appointed by the Governor in Council as regulator under Schedule 2, Part 1 of the *Work Health and Safety Act 2011*, Schedule 2 of the *Electrical Safety Act 2002* and section 32 of the *Safety in Recreational Water Activities Act 2011*.

# **Work Health and Safety Act 2011**

## *Part 11 Enforceable Undertakings*

### **REASONS FOR DECISION**

**Event No.** 233491  
**Entity** Boyne Smelters Limited (BSL)  
**ABN/ACN** 90 010 061 935  
**Entity Address** PO Box 524, Gladstone Qld 4680  
**Location of Incident** Handley Drive, Boyne Island Qld 4680  
**Date of Incident** 24 September 2016

#### **1 History of the Application**

- 1.1 The undertaking relates to a workplace incident that occurred on 24 September 2016 at BSL located at Handley Drive, Boyne Island, Queensland.
- 1.2 The injured worker had been employed by BSL as a shift co-ordinator for two years prior to the incident.
- 1.3 On the date of the incident, the injured worker was bringing furnaces up to operating temperature to get molten metal ready for the morning shift. The worker brought only one of three induction furnaces up to operating temperature as there was insufficient metal to bring the all furnaces up to operating temperature.
- 1.4 The worker was wearing personal protective equipment including long-sleeved shirt made of fire-retardant material, long pants, boots, earplugs, helmet and a full-face respirator.
- 1.5 To check progress, the worker left the control room and, in order to look into the furnace, had moved the furnace lid to a half open position. While looking into the furnace the worker noticed the added metal had not fully melted and that a minor bridge of hardened metal was forming on top of the furnace.
- 1.6 To address this, the worker returned to the control room and 'tilted' the furnace so that the molten metal would come up to hit the 'the top of the solid metal which would erode the forming bridge and allow for the release of pressurised air.
- 1.7 The worker then left the control room and returned to the furnace to check that the tilting of the furnace had removed the bridge that was forming. On looking into the furnace, the worker recognised that the molten metal was touching the solid metal and, from experience, realised that within a couple of minutes the bridge would 'melt down slowly.'
- 1.8 The worker moved away from the furnace toward the control room to manoeuvre the lid fully across the top of the furnace.
- 1.9 Inside the control room the worker would be 'safe' and would be able to observe when the bridge dropped.
- 1.10 However, before the worker could reach the control room the 'bridge' dropped.

### **3 Material and evidence considered by the regulator**

- 3.1. In making a decision regarding this matter, the regulator has given consideration to the following documents.
- 3.2. *Work Health and Safety Act 2011.*
- 3.3. *Guidelines for the acceptance of an enforceable undertaking* - dated August 2017.
- 3.4. EU material published on the WHSQ website - <https://www.worksafe.qld.gov.au/laws-and-compliance/enforceable-undertakings>.
- 3.5. Complaint - General Purposes - Made, and Summons dated 27 June 2018.
- 3.6. OIR Investigation Report – dated 24 January 2018.
- 3.7. OIR's Regional Director Statement of compliance history dated 3 September 2018.
- 3.8. Statement by the OIR's Director, Legal and Prosecution Services dated 29 August 2018.
- 3.9. Workers Compensation Reports dated 16 August 2018.
- 3.10. Statement from the injured person received at OIR on 11 February 2019.
- 3.11. Financial Capacity Statement provided by BSL dated 16 January 2019.
- 3.12. EU Unit Chronology – BSL dated 22 March 2019
- 3.13. Evaluation Panel Assessment – Initial Evaluation dated 13 March 2019.
- 3.14. Evaluation Panel Feedback dated 22 March 2019.
- 3.15. Signed final version of BSL's WHS undertaking dated 3 June 2019

### **4 Findings on material questions of fact**

- 4.1 I regard the *Guidelines for the acceptance of an enforceable undertaking* dated August 2017, publication as containing considerations which are relevant and appropriate to my decision.
- 4.2 I find the undertaking given by BSL satisfies the formal requirements of the WHS Act and the policy requirements discussed above with respect to the operation of Part 11 of the WHS Act as they have been published.
- 4.3 I find the factual background to the alleged contravention is set out in section 1 of BSL's undertaking.
- 4.4 I find that the procedural history relating to the undertaking is set out in section 1 above.
- 4.5 I accept the objective gravity of the matter has been assessed as a 'Medium/High' level, which takes into consideration the nature and circumstance of the incident, the culpability of the person, the presence of any aggravating or mitigating factors relevant to the alleged offence and any prior prosecution action by the State against the person.
- 4.6 I find the quantum of the undertaking as a proportionate amount relevant to the objective gravity, considering the Financial Capacity Statement provided by BSL and the estimated total value of the undertaking.

- 5.3 I have concluded that an EU is the preferred enforcement option to continuing the prosecution due to the opportunity to provide lasting organisational change within BSL and the implementation of monitored and targeted health and safety improvements, which would not be achieved by prosecution.
- 5.4 Under section 216 of the WHS Act, it is my decision to accept this undertaking as an EU and the effect of this decision is that the prosecution proceedings shall be discontinued.



Craig Allen  
**Deputy Director-General**  
**Office of Industrial Relations**

15 July 2019

