

ENFORCEABLE UNDERTAKING

Part 11, *Work Health and Safety Act 2011*

The commitments in this undertaking are offered to the regulator by

Logan City Council

ABN: 21 627 796 435

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

Contravention means an alleged contravention.

Council means Logan City Council.

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.

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 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.

WHSQ means Workplace Health and Safety Queensland.

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 Work Cover Qld 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.

SECTION 1: GENERAL INFORMATION

1.1 Details of the person giving the undertaking

Nominated person:	Mike Basterfield
Street address:	150 Wembley Road Logan Central QLD 4114

Mailing address: Logan City Council
PO Box 3226
Logan City DC
QLD 4114

Telephone: 07 3412 3412

Email address: Council@logan.qld.gov.au

Legal structure: Local Government

Type of business: Local Government

Commencement date: 1 January 1981

Workers: Full time: 1383

Part time: 138

Temporary: 44

Casual: 219

Trainees: 30

Agency: 207

Contractors: 200

TOTAL: 2221

Products and services: Local Government Services - including water, sewage, roads, general community infrastructure.

Comments:

1.2 Detail the contravention

It is alleged that Logan City Council (Council) failed to ensure, so far as reasonably practicable, the health and safety of workers under section 19(1) and section 32 of the *Work Health and Safety Act 2011*.

1.3 Detail the events surrounding the contravention

Following contact from a member of the public on Friday 7 September 2018, a sewer maintenance crew from Council Water Operations was dispatched to investigate and remedy a blocked sewer. The sewer maintenance crew consisted of two water operations personnel.

On investigation on site the crew located a blockage, located in dense bushland in Chatfield Park, at the base of a steep embankment below the relevant address.

After several unsuccessful attempts to clear the blocked sewer pipe, and in accordance with documented water operations procedures – WOP303 Management of Sewer Overflows and WOP307 Wastewater Inundations, sewer rods with a square bar corkscrew bit were used to remove what was believed to be tree roots in the pipe between two manholes.

At approximately 1820, whilst twisting the sewer rod with the pull-out/turn handle, one of the screw-in rods for the handle disengaged causing the operator to lose control of the assembly, striking the operator in the face causing facial injuries requiring treatment in hospital.

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

Not Applicable

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

The worker sustained facial injuries including a fractured jaw and cheekbone, dental damage, and lacerations to the lips.

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 injured Worker is and employee of Logan City Council.

Status: Council is self-insured in accordance with terms of the statutory workers' compensation insurance scheme operating in Queensland under the *Workers' Compensation and Rehabilitation Act 2003* (Qld). The injured worker received compensation benefits in accordance with the statutory scheme and has made a full return to work.

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
7 – 11 Sep 2018	Medical treatment under Workcover (LGW) arrangements Water Operations Manager visited IP in hospital	
12 Sep – 22 Oct 2018	Return to work (RTW) coordinator contacted spouse to enquire on status. Offered Employment assistance program support and a weekly follow up. RTW coordinator remained in contact throughout this period to support both the IP and family.	
	Water Operations staff maintained contact with the injured person (IP), calling and visiting him at home several times.	
30 Oct 2018	IP returned to work.	
	On return to work the Water Operations placed the IP in a crew that maintained a watch on his progress. The supervisor also made several site visits to monitor his progress and kept open communication lines for any issues.	
6 Mar 2019 – to 19 Oct 2020	IP attended work for an update and medical certificate. The RTW coordinator maintained contact with IP related to ongoing rehabilitation. Treatment continued with the RTW coordinator providing support.	
Current	Treatment remains ongoing, therefore the RTW coordinator remains in contact with the IP.	

1.8 Detail any current OHSMS implemented and maintained by the person

Council is self-insured and as such has a safety management system based on the principles of *AS/NZS 4801 :2001 Occupational Health and Safety Management Systems - Specification with guidance for use* and *AS/NZS 4804:2001 Occupational health and safety management systems- General guidelines on principles, systems and supporting techniques*. The OHSMS has recently been reviewed and a new Policy, Objectives and Targets and associated management plans have been developed for implementation across Council.

As part of Council's OHSMS, each operational department conducts risk assessments for its activities and develops relevant operational procedures to ensure all works are conducted in a safe manner. Training is based on these operational procedures. Logan City Council also engages with the workforce to identify opportunities for improvement through audit, incident investigation and toolbox meetings. Implemented changes to operational procedures are reflected in updates to these documents. Feedback to employees is via training and toolbox sessions.

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

Council engages contracted internal auditors and external third-party auditors to periodically review the effectiveness of the safety management system in Council.

Internal Audit

The Audit and Risk Committee for Council comprises two elected members and four independent members. The primary objective of the committee (advisory body) is to assist Council in fulfilling oversight responsibilities relating to accounting and reporting requirements imposed under *the Local Government Act 2020* and other relevant legislation, including the *Work Health and Safety Act*

2011. The Audit and Risk Committee has authority to conduct or authorise investigations into matters within its scope of responsibility. The Audit and Risk Committee also maintains oversight of the Council Internal Audit function. The Audit and Risk Committee meets at least two times, but usually four times each financial year.

Internal audit, within Council, provide independent advice and assurance to management that the policies, operations, systems, and procedures for which they are responsible:

- (a) comply with relevant legislation and standards (compliance)
- (b) are carried out with optimum use of resources (economy and efficiency)
- (c) achieve the objectives specified in Corporate and Operational Plans (effectiveness).

Internal audit conducts at least one audit annually.

The objectives of the Work Health and Safety Management System Plan are monitored and reviewed through Monthly Action Plans which are reported to the Chief Executive Officer (CEO) and Executive Leadership Team (ELT) on a quarterly basis.

Council's Health and Safety Program conduct routine surveillance audits of operational work areas to support all internal departments.

It is the responsibility of each Branch Manager to ensure internal monitoring is conducted within their operational departments. Internal audits are scheduled via the Logan City management tool– Intellex and are completed quarterly. Audits involve the review of a detailed list of Hazards across each business unit as well as HSE activities completed by the Branch.

Records to demonstrate this activity are available quarterly and can be submitted to demonstrate completion of the activity.

External Audit

As part of the requirements for self-insurance, Council has third party work health and safety system audits conducted on a regular basis by a third party, WHSQ approved auditor. The audit is conducted against the requirements of the National Self-Insurer OHS Management System Audit Tool and *AS/NZS 4804:2001 Occupational health and safety management systems- General guidelines on principles, systems and supporting techniques*. The most recent surveillance audit was conducted from 17 February to 6 March 2020. The next self-insurance audit would be due as part of license renewal due on 31 May 2023. Council intends to ensure all audit requirements associated with self-insurance continue to be met. Please note that LCC commits to additional external audits as described in clause 3.2.8, and sections 3.8 and 3.9 below.

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

Consultation for this undertaking will include:

- The Chief Executive Officer
- Elected Mayor and Councillors
- Executive Management Team that consists of:
 - Director Organisational Services
 - Director Strategy and Sustainability
 - Director Community Services
 - Director Road and Water Infrastructure
 - Director Innovation and City Transformation
- Elected health and safety representatives, who then consulted with workers within the infrastructure and utilities workgroups.
- Members of the Council's water partnership and established Health and Safety workgroup.
- The Service Delivery crews involved in the provision of the services involved in the incident have been consulted at toolboxes and business updates concerning the finalisation of the Enforceable Undertaking. These teams will be updated through similar forums throughout completion of Undertaking activities.

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:

- Elimination of the use of fixed rods for drain clearance:
 - Action # 01420 The use of sewer rods has been eliminated in Council. All existing sewer rods have been removed from stores, vehicles and sheds therefore having no available for use. (closed 26 June 2019)
- Substitution by procurement and implementation of new equipment into Council's Water Operations. (Equipment 108,295.00, Training 12,872.20):
 - Action # 01421 Safe work procedures for high-risk sewer cleaning equipment, Jet Rodder, has been developed. (closed 26 June 2019)
 - Action # 01423 Organise suitable Jet Rodder training from a reputed supplier or another accredited organisation and get all sewerage maintenance staff booked into this training. (closed 3 July 2019)
- Provision of additional lighting for out of hours and visibly challenged environments. (534.00):
 - Action # 01424 Bright portable LED lights for all crews to be used at sites away from the trucks have been purchased. (closed 26 June 2019)
- Commitment by Water Operations management to safely control high risk activities:
 - Action # 01422 The Manager and Program Lead of Water Operations have ensured the following is observed by all Water Operations staff: *Safety of our staff is the number one priority. In attending high risk works, the field staff need to assess relevant risks in liaison with their supervisor. If the potential risks are high, the work will not proceed regardless of the customer service/environmental impacts.* (closed 1 July 2019). This is demonstrated by the recent JSEA reviews conducted by the business and the "Risktalk" system trials proposed in this undertaking.

Ongoing actions above the initial actions listed above have also been undertaken:

- Provision of two additional vehicle mounted jet rodders, available in January 2021. (\$200,000).
- Continuation of funding for Water Industry Worker Training (Certs 2,3, 4 and Diploma) for selected Water Operations staff. (\$100,000 ongoing commitment over 5 years).
- Review of all risk assessments and associated procedures for similar water operations.
- Provision of refresher training on risk assessments; and
- Conversion of relevant Health and Safety positions, currently temporary, to permanent positions to ensure consistent health and safety advice and monitoring of the OHSMS.

Total amount spent on rectifications

\$421,701.20

SECTION 2: GENERAL TERMS

Council 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

Council acknowledges that the regulator has alleged that Council has contravened provisions of the *Work Health and Safety Act 2011* 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

Council deeply regrets the incident that occurred on 7 September 2018. Council is, and always has been, genuinely committed to the health and safety of its employees, contractors, and other people in the workplace and to ensuring that its operations do not place other people at risk.

By entering into this undertaking, rather than a court-imposed sanction, there will be ongoing positive impacts on the health and safety of Council's workers and contractors, industry and members of the community through the implementation of the activities detailed in section 3 of this undertaking.

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

Council is committed to ensuring the behaviours, activities and other factors that caused or led to the alleged contravention will not reoccur, through the rectifications following the incident 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

The following has been read and understood on behalf of the Council:

Guidelines for the acceptance of an enforceable undertaking
Version: PN11783 Version1 Dated: 22 November 2017

2.5 Acknowledgement that this undertaking may be published and publicised

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

2.5.2 Council 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 Council has the financial ability to comply with the terms of this undertaking and have provided evidence by way of Council consolidated statement dated 30 June 2020 with this undertaking to support this declaration.

2.6.2 In the event of impending amalgamation or change in government structure, Council 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

Council has no commercial or other relationships with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking.

2.8 Statement regarding Intellectual Property Licence

The Council 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.

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

Council is committed to undertaking all activities to ensure the effective management of risks to health and safety in the future conduct of its business. Council remains committed to the OHSMS and its ongoing monitoring and implementation of opportunities for improvement. This will be supported through relevant briefings and reports outlining the status of the OHSMS objectives and targets and associated key performance indicators at monthly Executive Leadership Team meetings, quarterly health and safety reporting, and an annual management review of the OHSMS as outlined in AS/NZS 4801.

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

Council acknowledges that the proposed activities within this undertaking may promote or benefit Council. Council commits to linking any promotion or benefit thereby derived to this undertaking.

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

Council commits to disseminating information about this undertaking to its employees and other relevant stakeholders by:

- Communication from Chief Executive Officer to all staff
- Safety Notice delivered at Toolbox Talks
- Safety Notice to be placed on all WHS noticeboards and Safety Intranet
- Communication report to the Mayor and Elected Representatives
- Communication report to Council's Work Health and Safety Committee

Dissemination of the above information will occur within 3 months from the acceptance of the undertaking.

In addition, Council commits to publish a summary report in Council's Annual Report, commencing with the Annual Report following finalisation of the undertaking. LCC Annual reports align to financial years and are published on the LCC website within 1 month of the issue of auditor-general's report about the Council's financial statements for the financial year. The first Annual Report EU summary will be published within 12 months of the acceptance of the EU with further summary reports included in all Annual Reports for the duration of the EU.

Council commits to a review of activities with the self-insurer audit program and OIR Industry Strategy and Programs Unit. LCC will provide the regulator with a copy of all internal and external audit reports completed during the life of the EU. Please refer to Section 3.8, 3.9 and 3.10 for details of this commitment.

Evidence will be provided of completion of the above tasks and all EU tasks via correspondence to the Enforceable Undertakings Unit.

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

3.2.1 Provision of Additional *Jet Rodder* Equipment

Although Council has already procured equipment to replace the eliminated fixed rods, Council commits to providing an additional high-powered *jet rodder* as a spare for on-call crews. Where jet-rodming equipment is not able to be used due to access restraints, Council intends to use traditional clear and excavate methods after safe work assessment and task planning. Council will continue to monitor development in maintenance methods to enable consideration of emerging technologies for effective management of blocks and chokes in areas of access difficulty.

LCC's existing jet rodming equipment is trailer based which limits access to some applications. LCC proposes to truck mount the new rodder to improve access of the unit to the worksite as the unit will be more easily manoeuvrable. LCC will also commence discussions with adjacent water authorities to compare and improve operating methods for this equipment.

LCC commits to researching via a third-party engineering consultant, best practice drain blockage removal systems and will include comparison of current LCC methodology and that of neighbouring authorities. WHS interns proposed under this agreement will also participate in this work,

LCC has realigned its service model to pivot reactive to planned maintenance and has established a Planning and Optimisation Program within the Service Delivery Business Stream. This program is now responsible for Maintenance and Asset Renewal planning. The O&P program will manage day of service planning and dispatch and service logistics including the investigation of new work methods. The program will operate from a 24/7 integrated service hub.

Benefits of this Undertaking: This will enhance support available to all workers across Council and ensure that sewerage maintenance work is undertaken in a safe manner. Council intends to review jet rodder operation and has commenced interaction with other authorities to compare operating procedures to review and improve safety of operation where possible. Staff training in equipment use will be completed as part of normal business operation.

Activities	Minimum cost	Timeframe
3.2.1 (a) Provision of Additional Jet Rodder Equipment. Costs include: Equipment cost \$100,000 Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including: <ul style="list-style-type: none"> • Procurement order / invoice for new equipment 	\$100,000	Within 12 months of acceptance of this undertaking.
3.2.1 (b) Provision of consulting engineering review of best practice and emerging technologies for effective management of blocks and chokes in areas of access difficulty. Evidence – report on findings and communication to industry. Procurement records via LCC partnership contract.	\$25,000	Within 12 months of acceptance of this undertaking.
3.2.1 Sub Total	\$ 125,000	

3.2.2 Commitment to Improve Implementation of the OHSMS – *This is Health and Safety* Workshops

Council previously embarked on a behavioural based safety program built around the mantra of “*From now on this is Safety*”. Council commits to move this program to a new level by refining and developing skills and behaviours that support the progression of this to “*This is Health and Safety*”. The widening of the scope, to include health, also recognises the importance of this element and will be supported through a Council wellbeing program. The “*This is Health and Safety*” team workshops are a refined version of the “*From now on this is Safety*” program delivered to all Council staff and will be delivered to groups in two-hour sessions or through e-learning, taking into account any social distancing restrictions that may apply at the time. The session is designed to develop a fundamental shift in thinking when it comes to health and safety awareness. It is aimed at individual team members and will equip them with the beliefs, skills and expertise to positively influence the health and safety culture within Council. The session encourages teams to be personally responsible for their own health and safety, to be safe in everything they do and maintain a healthy environment and approach - whether at work or at home.

This program will be delivered in the most appropriate format through face-to-face workshops, team briefs and toolbox talks, or e-learning.

Benefits from this Undertaking: A Council wide “*This is Health and Safety*” philosophy aimed at creating a shared belief across Council's entire organisation that all incidents are preventable, and the wellbeing of our workers are the most important factors in an engaged workforce. It will promote awareness of hazard identification in the workplace and at home and encourages participants to recognise and acknowledge others when they see unsafe and safe acts and conditions. It will also build on the Council wellness program. The program provides an opportunity to change how employees think about health and safety as part of everyday life. Individual worker wellness interventions will not form part of this work.

Activities		Minimum cost	Timeframe
3.2.3	<p>PERforM Program.</p> <p>Costs include: Development and implementation / facilitation of PERforM program including consulting time and workshop venue hire</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Attendance lists of attendees (estimate of circa 500 Council staff involved in manual task activities in their normal work) • Examples of PERforM risk assessments • A register of identified issues will be maintained along with evidence of program development enhancing the program with risks identified and mitigated through staff interaction. • Injury statistic will be reviewed prior and post program implementation to demonstrate effectiveness of this initiative. Results will be shared within Council and externally to promote outcome. Review will confirm target participants through assessment of teams subjected to manual task injury. Participant numbers will be adjusted accordingly 	\$25,000	Within 12 months of acceptance of this undertaking.
3.2.3	Sub Total	\$ 25,000	

3.2.4 Management of Risks to Health and Safety – Tool audit and VOC / training development

Council is committed to improving awareness and responsibilities relating to tools and equipment use, to reduce any associated risks. Council utilises tools and equipment extensively and commits to understanding and improving the risk management of all tools but particularly focussing on those elements of high risk / low use equipment used infrequently or in response to an emergency.

Council will commence this work with a review of business unit risk assessments and injury statistics to target high risk activities in this program and confirm tools and equipment which present high risk and involve low frequency use.

Council will engage an appropriate contractor / consultant to conduct an audit of tools and equipment and then risk assess these associated with their potential outcome and frequency of use.

Council will develop a matrix of the roles and associated tools and ensure all personnel are trained in their use and document this training. Where a tool or piece of equipment is identified as high risk but low use, a mechanism of ensuring competency on this equipment will be developed and implemented.

Council intends to review with the High risk/low use matrix with OIR's Industry and Strategy and Programs Unit prior to implementing the program to verify staff competency in equipment use and risk assessment.

The verification of competency (VOC) matrix will then be reviewed and applied across Council activities as required.

Benefits of this Undertaking: This initiative will identify high risk tools and equipment and opportunities for managing and controlling risks associated with these, especially those high-risk low use items. The verification of competency matrix will therefore improve overall health and safety of tools and equipment within Council activities.

Activities		Minimum cost	Timeframe
3.2.4 (a)	<p>Tool an Equipment Audit.</p> <p>Costs include: Engagement of suitable third-party auditor Audit costs including accommodation and travel</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Audit report 	Nil towards undertaking	Within 12 months of acceptance of this undertaking.
3.2.4 (b)	<p>Gap analysis and VOC Development</p> <p>Costs include: Contractor costs Gap Analysis System Development</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Procurement order / invoice for activities • Gap analysis outcomes • VOC procedure 	Nil towards undertaking	Within 24 months of acceptance of this undertaking.
3.2.4 (c)	<p>VOC Training and Implementation.</p> <p>Costs include: Engage external contractor to deliver training System updates and verification</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Training attendance records • System overview 	Nil towards undertaking	Within 36 months of acceptance of this undertaking.
3.2.4	Sub Total	Nil towards undertaking	

3.2.5 Management of Risks to Health and Safety – Contractor Management

Council is committed to improving contractor management and enhancing the sharing of information from, and between contractors and Council to reduce any associated risks. Council utilises contractors regularly and therefore commits to understanding and improving the risk management of all contracts across the procurement spectrum.

Council reviews the H&S performance of contractors as part of a process to add contractors to the Tech1 finance management system to enable commercial transactions.

Council will engage an appropriate contractor / consultant to conduct an audit of the contractor management to identify any gaps and areas for improvement in the current process including performance review once services have been provided.

Council will review and develop Council's Contractor Management process to ensure that work health and safety requirements are assessed, assured, and implemented at all stages of the contract processes. Council procurement will be engaged to provide detail of current contractor performance and engagement.

Council will employ a dedicated internal resource to facilitate this program and ensure ongoing continuous improvement in contractor management practices in Council. The wages for this person will be absorbed by Council and therefore will not be reflected as a direct cost to the undertaking.

The proposed approach and methodology in undertaking this review will be delivered in 3 phases:

- Phase 1 - Contractor Management System Audit
- Phase 2 - System and Audit Tool Development and Training

Phase 3 - Follow-up Contractor Management System Audit to confirm effectiveness of audit tool and training

Council will compile a post audit report to demonstrate the benefit of the audit program and identify training opportunities for contractors to improve WHS. Training will be outside the scope of the undertaking but will be an opportunity for contractors to improve performance on LCC works based on audit outcomes.

Benefits of this Undertaking: This initiative will identify improvement opportunities for managing and controlling risks when working with contract partners in all areas of Council operations. The initiative will provide a dynamic and auditable system for the management of Council contractors and sub-contractors therefore improving the overall health and safety within Council activities.

Activities		Minimum cost	Timeframe
3.2.5 (a)	<p>Contractor Management System Audit.</p> <p>Costs include: Engagement of suitable third-party auditor Audit costs including accommodation and travel</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Audit report • Establishment of audit KPI to assess ongoing improvement in contractor management • Share outcomes with LCC network. 	\$5,000	<p>Within 12 months of acceptance of this undertaking.</p> <p>Within 18 months share audit outcomes with Council network</p>
3.2.5 (b)	<p>System and Audit Tool Development</p> <p>Costs include: Tool Development Refine Procurement process</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Procurement order / invoice • System change evidence 	\$8,000	Within 24 months of acceptance of this undertaking.
3.2.5 (c)	<p>System and Audit Tool Training</p> <p>Costs include: Staff training material printing</p> <p>Evidence:</p> <ul style="list-style-type: none"> • Staff training records. 	\$2,000	Within 30 months of acceptance of undertaking
3.2.5 (d)	<p>Contractor Management System follow up Audit.</p> <p>Costs include: Engagement of suitable third-party auditor Audit costs including accommodation and travel</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Audit report • Copy of the improved contractor management system to be provided with the audit report • KPI results to demonstrate improvement in contractor management • Communication of system update outcomes with LCC network to demonstrate findings 	\$5,000	Within 36 months of acceptance of this undertaking.
3.2.5	Sub Total	\$ 20,000	

3.2.6 Trial of Voice Powered Workplace Safety Application

One of the key outcomes of the investigation into this workplace incident was the effectiveness of work planning to achieve safe work outcomes. Discussion with work teams has identified the use of a voice powered application to improve planning through interactive team discussions addressing critical risks and achieving a safe work plan. Council commits to trialling this approach with a view to wider roll out on successful trial.

Risk Talk is a voice powered application which enables work crews to complete safety assessments and work planning verbally rather than using paper JSEAs. The system provides prompts concerning critical risks and promotes “eyes up” assessment and discussion of the worksite and tasks planned. Audio can be listened to and added to by new team members or inspectors and features voice to text conversion if necessary. Crews can be located via a management dashboard with review status shown for supervisor overview. Information is cloud stored with access to LCC via the internet. This application will be a local authority first by LCC.

Benefits to Logan Water from the use of Risktalk will include

- Faster and more efficient safety assessments by work crews
- Reduction in paper forms and manual data entry
- Immediate monitoring of lead indicators in real time via the system dashboard
- Encourage heads up critical thought and discussion of risks and controls
- Document safety observations by mobile phone
- Report incidents and involve supervisor review in real time
- Hazard identification by voice improving resolution time
- Online collation of safety data identifying emerging key risks
- Remote review of safety observations and planning – better supervisor overview
- Insights at business level for proactive management review

Further information is available online at ristalk.com.au

LCC has had the opportunity to demonstrate the system to local WHSQ officers with positive feedback. LCC continues to liaise with the local WHSQ Operations Manager regarding implementation of the system and use during site and system inspections and reviews.

Council proposes

- To select water crews to trial the Risk Talk application for safe job planning
- Configure the application to address the key components of the Council safety management system
- Embed Council's risk matrix in the process
- Use the application to include photographs, convert discussion to text as necessary
- Engage supervisors to monitor effectiveness and available metrics from the application
- Conclude trial with workshop with staff, supervisors and HSE advisors to assess success and potential to apply through City of Logan.

In parallel to the preparation of the undertaking, LCC has investigated market available product and has completed an RFQ to enable procurement of the application to complete an extensive trial. This procurement activity is complete enabling extension of the trial to up to 400 staff on signing of the undertaking.

Activities	Minimum cost	Timeframe
3.2.6 Risk Talk trial. Costs include: Development application for Logan water with specific critical risk prompts and Logan City risk matrix Brief and train staff Brief and train supervisor Field support to ensure effective application use	\$35,000 x 2yrs	Within 12 months of acceptance of this undertaking.

	<p>Workshop with crews, supervisors, managers, and safety advisors to assess trial Vendor Application cost and cloud access to data and analytics</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Assessment workshop outputs and benefits statement. • Vendor invoices for product, training, and setup cost 		
3.2.6	Sub Total	\$70,000	

3.2.7 Commitment to Resourcing this Undertaking

Council is committed to appropriately resourcing the activities associated with this undertaking. Council will employ a dedicated internal resource to facilitate this program and promote ongoing continuous improvement. This resource will be engaged in the development of this undertaking and then transition into a project management, compliance and reporting role associated with all activities within this undertaking. The role will be based on a Principal Health and Safety Advisor, located within the health and safety program, but with a specific remit of progressing the undertaking and identifying opportunities to enhance and share learnings associated with the related activities. Resourcing this at a Principal level role is to ensure the person has the appropriate level of knowledge and can provide sound advice, has sufficient authority to implement the undertaking, and can work independently across all Council departments and areas to ensure the appropriate level of reporting.

Although this resource will be based in the health and safety program, Executive support to this undertaking will be provided from the Group Manager Logan Water. By identifying an executive level appointment this undertaking will have the required focus and authority to be implemented across the whole of Council.

Given current estimates, the resource will be employed at Principal Health and Safety Advisor level 7 for an initial three-year period with an opportunity for an additional year depending on the progression of the EU.

LCC has commenced recruitment of this role with the following key requirements and responsibilities,

- Strategic leader to manage and implement the commitments under the Enforceable Undertaking
- Proactive attitude to enable key stakeholders to engage and contribute to the success of the Undertaking
- Encourage and achieve high employee participation rates in Enforceable Undertaking activities
- Apply comprehensive professional HSE knowledge to guide activities to maximum impact
- Use advanced reporting skills to monitor and report on Undertaking progress and effectiveness
- Engage and manage communications team to distribute findings to wide LCC network maximising impact of Enforceable Undertaking activities by disseminating outcomes and learnings from the program
- Monitor cost and prepare evidence to demonstrate Enforceable Undertaking activities have been completed to the EU agreement.
- Demonstrate effective working knowledge and skill to coordinate and lead WHS audit processes including those relating to insurance and LCC systems
- Develop outcomes and implement change processes to embed Undertaking initiatives in LCC operations
- Manage initiatives described in this agreement to completion including review of best practice methods for access for choke/block maintenance activities,
- Oversea engineering consultancy relating maintenance access and jet rodder methods outlined in this document
- Undertake review of high-risk preventative maintenance tasks with access and egress hazards documenting effective solution implementation
- Oversee review and audit of the LCC contractor management system to deliver outcomes described in this Undertaking.
- Oversee activities completed by student staff under this EU

Benefits of this Undertaking: Having a dedicated resource will enable Council to gain maximum benefit from the undertaking. The role will be able to share opportunities, identify areas for improvement and by reporting regularly will keep both OIR and Council leadership informed of the progress. A new resource will be employed, we anticipate that the resource will be 80% focussed on the EU. The resource will also be able to focus on the projects associated with the undertaking not distracting existing staff from their key roles. Allowance has been made in this allocation for the resource to participate in more general activities within the LCC Health and Safety program to ensure integration with Council activities and maximum coordination and benefit from EU activities. The principal focus however will be the coordination and delivery of EU activities and initiatives being responsible program development, sourcing and engagement of consultants, review and confirmation of content (including by OIR), organisation and coordination of delivery of programs, reporting and outcome sharing across LCC and to external interested parties.

Activities		Minimum cost	Timeframe
3.2.7	<p>Provision of a Principal Health and Safety Advisor.</p> <p>Costs include: Staff costs for three years – 80% of full salary Optional additional year if EU not completed within anticipated timeframe. Note cost of this additional year is not included in the stated value.</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Role description • Employment costs annually. i.e. payment summary 	\$288,000 (\$96,000 x 3 years)	Engagement following acceptance of the EU. Recruitment process will commence upon signing of the EU with the position filled within three months. Annual confirmation of engagement.
3.2.7	Sub Total	\$ 288,000	

3.2.8 Third Party Audit of WHSQ System

Council commits to an initial audit of the OHSMS and further audit at 12-month intervals for the life of the Enforceable Undertaking. Please refer to Clauses 3.7 to 3.10 below for details.

OIR will be provided with an audit report after each audit. Each report will be forwarded within 30 days of receipt by LCC. Actions arising from each audit will be communicated to OIR within a further 30 days. Implementation of actions will be completed prior to the next audit due during the EU.

It is anticipated one of the three planned audits will fall at a similar time to the next Self Insurance audit. The Self Insurance audit will be used to meet the requirements of the EU under this commitment.

The audits will provide benefit to LCC employees by ensuring the system is meeting requirements.

Please note that the cost of the two additional audits over and above the self-insurance audit already planned, have been included as part LCC financial commitment to the Undertaking as shown in the table below.

External audits will be completed using the LGW endorsed self-insurance audit tool.

It is proposed to provide similar coverage to recent LGW audits for audits to be completed under this EU. Eight of 25 Council branches will be involved in each audit to show the effectiveness of the Health & Safety system across a broad cross section of LCC operations. Site visits and interviews will be completed during these audits. Coverage of branches across Council's Five Directorates will be coordinated with LGW prior to each audit plan being finalised. OIR will be consulted during this process.

Activities		Minimum cost	Timeframe
3.2.8	<p>3rd Party OHSMS audit on signing of EU</p> <p>Costs include: Auditor Costs \$2000 per day with an estimate of 15 Days Consulting Costs</p> <p>Evidence:</p> <ul style="list-style-type: none"> • Payment of invoiced costs • Copies of audit reports, mitigations and close out as described in Section 3.7 to 3.10 	\$2000.per day x 15 days x 2 audits (note a self-insurance audit will also be completed during the EU)	Engage auditor on acceptance of the EU. Program audit within 3 months of signing and then at 12 month intervals during EU
3.2.8	Sub Total	\$60,000.00	

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

3.3.1 Awareness Presentations to Industry Forums and Working Groups

Council commits to sharing learnings both from this incident and any associated outcomes from this undertaking. Council currently engages in water specific forums such as the Q-Water Safety Forum and will openly share any improvements through these groups. Council is also represented on various general safety forums and again undertakes to share outcomes through these forums.

LCC commits specifically to communicating learnings and outcomes from research into preventive maintenance and best practice for drain clearing in areas of access difficulty. The findings will be presented in all proposed forums.

Benefits of this Undertaking: By openly sharing any outcomes from both this incident and from this undertaking, Council will be assisting other industry partners to learn from this experience. There is also the advantage that by sharing openly like incidents could be avoided, better placing Queensland industries to perform safer.

Activities	Minimum cost	Timeframe
<p>3.3.1 (a) Provision of Awareness Presentation to Q-Water Safety Forum.</p> <p>Costs include: Attendance of suitable representation from Council Water Operations at this forum. Development and delivery of presentation and supporting materials, including updates through the lifecycle of this undertaking.</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Agenda items on Q-Water Safety Forum • Copy of Presentation prior to delivery • Travel and accommodation 	\$ 3,000	Within 24 months of completing work to be covered by the presentation and at the next possible Q Water safety forum after completion of undertaking commitment
<p>3.3.1 (b) Provision of Awareness Presentation to relevant Safety Forums.</p> <p>Costs include: Attendance of suitable representation from Council safety staff at this forum. Development and delivery of presentation and supporting materials, including updates through the lifecycle of this undertaking.</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Agenda items on relevant Safety Forum • Copy of Presentation prior to delivery • Travel and accommodation 	\$ 1,500	Within 24 months of completing work to be covered by the presentation and at the next possible Q Water safety forum after completion of undertaking commitment.
3.3.1	Sub Total	
	\$ 4,500	

3.3.2 Presentation to Council Forums

Council commits to sharing learnings both from this incident and any associated outcomes from this undertaking. Council currently engages in a variety of forums but has identified that the learnings from this incident will be particularly beneficial to the Councils both from experiences associated with the incident but also through the preparation and instigation of this undertaking. Council commits to sharing information related to this incident and undertaking to other Councils through presentations to appropriate forums and any required follow up with specific Councils as required or the preparation of a case study for distribution to all Councils. Distribution will as wide as possible to ensure maximum benefit to Queensland Councils from this work complete by Logan City.

LCC commits specifically to communicating learnings and outcomes from research into preventive maintenance and best practice for drain clearing in areas of access difficulty. The findings will be presented in all proposed forums.

Benefits of this Undertaking: By openly sharing any outcomes from both this incident and from this undertaking, Council will be assisting the wider Council community to learn and benefit from this experience. There is also the advantage that by sharing openly, like incidents may be avoided and awareness could be raised across the Council community, better placing Australian Councils to be more aware and raise safety performance.

Activities		Minimum cost	Timeframe
3.3.2	<p>Presentation to LGW or SEQ WHS Forums Council Forums.</p> <p>Costs include: Presentation preparation and administration costs Travel, accommodation, and registrations fees</p> <p>Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including:</p> <ul style="list-style-type: none"> • Copy of the presentation prior to delivery • Invoices to demonstrate costs incurred 	\$5,000	Within 24 months of completing work to be covered by the presentation and at the next possible safety forums after completion of undertaking commitment
3.3.2	Sub Total	\$ 5,000	

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

3.4.1 Internship for Bachelor of Occupational Health and Safety Students

Council commits to providing an annual vocational internship to the University of Queensland Bachelor students of Occupational Health and Safety Science. Council commits to offering one position each year for three years beginning in 2022, and the last position being held in 2024.

Council commits to allocating an amount of \$15,000 over three years to assist the students with travel, accommodation and living expenses during the internship. Business related costs will be met through Council process and is therefore not reflected in this undertaking.

Students will be involved in the research activities proposed regarding preventative maintenance and best practice drain blockage clearance.

Students will be supervised by the Senior Advisor recruited to manage this Undertaking with input from degree qualified LCC safety management staff.

Benefits of this Undertaking: Investment in the future of health and safety students will ensure that learnings from current industry practices and incidents can be considered in control mechanisms moving forward. By providing support to relevant students they will qualify with a better understanding of industry and be able to apply learnings quickly within the workplaces that they eventually work in. Council provides a diverse working environment that can enhance these learnings and better prepare students within the OHS industry.

Activities		Minimum cost	Timeframe
3.4.1	<p>Internship for Bachelor of Occupational Health and Safety Students.</p> <p>Costs include: Three one-year grants of \$5,000 to the successful student, nominated by the University of Queensland and approved by Council.</p>	\$15,000 (\$5000 per year over 3 year)	Within 12 months of acceptance of this undertaking and each 12 months until completion.

	<p>Business costs associated with provision of PPE and work equipment.</p> <p>Evidence: Council will provide documented evidence to the regulator every 12 months of this deliverable including:</p> <ul style="list-style-type: none"> • One-page overview for each student placement on their activities and outcomes. • Payment evidence for grant costs 		
3.4.1	Sub Total	\$ 15,000	

3.4.2 Health and Safety Support to Community Learning and Development Program

Council currently is developing a “Community Learning and Development Program” that will provide assistance and expertise through free workshops and training sessions for community members, services, and organisations. As part of this program there is an opportunity to provide general health and safety training and support, including the requirement for and completion of risk assessments. Council commits to extending the program to include provision of general health and safety training and assistance through supporting community workshops.

Assessment of community need is necessary to effectively scope this program. The expenditure envisaged below will fund four workshops for community groups targeting health and safety training. An example would be local “Mens’ Sheds” where workshop H&S would be a target. Council will use its current statistics relating to older workers, injury type and frequency to inform these workshops. Provision of safety equipment to support the program will be assessed.

LCC commits to reviewing the scope of this initiative with IOR’s Industry Strategy and Programs unit within six months of the signing of the undertaking. This will allow alignment with the planned Community Learning and Development Program in the 21/22 financial year.

Benefits of this Undertaking: Improving community knowledge in health and safety and risk assessments will empower organisations within the Council area to improve their approach to and performance of health and safety. This undertaking will assist in making the Council area a safer place to both live and work.

Activities	Minimum cost	Timeframe
3.4.2 Health and Safety support to Community Learning and Development. Costs include: Development of training materials and supporting information Delivery of training materials Venue costs Ongoing support Evidence: Council will provide documented evidence to the regulator at the completion of this deliverable including: <ul style="list-style-type: none"> • One page detailing the content and proposed delivery of community support programs. • Invoice remittance as evidence of cost 	\$10,000	Within 12 months of acceptance of this undertaking.
3.4.2 Sub Total	\$10,000	

3.5 Agreement to pay the OIR’s recoverable costs

3.5.1 Council 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	\$3,814
Legal costs	\$1,500
Compliance monitoring costs	\$3,410
Publication costs	\$2,000
Total of OIR recoverable costs	\$10,724

3.6 Minimum spend

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

Estimated total value of	Minimum spend
Benefits to workers/others	\$593,500
Benefits to industry	\$9,500
Benefits to community	\$25,000
OIR recoverable costs	\$10,724
Estimated total minimum spend for the undertaking	\$638,724

3.6.2 Council 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 Council 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 Council 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 Council acknowledges that the auditors selected to perform OHSMS audits must meet the qualification requirements as set by the regulator.

3.8.2 Council commits to ensuring the OHSMS will be audited by certified third party auditors.

3.8.3 Council acknowledges that details of the auditors' qualifications will be provided with audit reports submitted to OIR.

3.8.4 Council acknowledges that costs associated with these audits will be met by Council as part of the undertaking.

3.8.5 Council 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 Council 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 at commencement of this undertaking being accepted.

3.8.7 Council commits to ensuring at least two further third-party audits will be undertaken at 12month intervals, commencing 12 months after the initial audit. One of these may be the planned Self Insurance third party audit.

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. Actions will be resolved prior to the next audit due during the EU.

3.10 A commitment to implement the recommendations from third party audits

- 3.10.1 Council 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 Council 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 Council 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 Council commits to providing a detailed action plan or statutory declaration by an authorised officer 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.

SIGNED on behalf of LOGAN CITY COUNCIL

- on the 13 day of the April 2022;
- pursuant to *Local Government Act 2009* section 236;
- by the Mayor / a Council delegate / a councillor / an officer authorised by the Mayor, who certifies he/she is the proper officer to sign:
- in the presence of a witness:



Mayor / Delegate / Authorised Officer

Darren Scott

Full Name



Witness

Kate McCaffrey

Full Name

SECTION 5: ACCEPTANCE

This undertaking is accepted by the regulator on the 9 day of June 2022



Signature of regulator

Jodie Deakes

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 Number	261499
Entity	Logan City Council
ABN	21 627 796 435
Entity Address	150 Wembley Road, Logan Central, QLD, 4114
Location of alleged contravention	Chatfield Park, Lindau St, Edens Landing, QLD 4207
Date of alleged contravention	7 September 2018

1 History of the application

- 1.1 The undertaking given by the Logan City Council (LCC) relates to an alleged contravention of the *Work Health and Safety Act 2011* on 7 September 2018 where a LCC worker, employed as a water maintenance labourer, was injured.
- 1.2 Following contact from a member of the public, on 7 September 2018, a sewer maintenance crew from LCC's Water Operations was dispatched to investigate and remedy a blocked sewer. The sewer maintenance crew consisted of two LCC water operations workers.
- 1.3 Following further investigation, the crew located a blockage in the main sewer line which was adjacent to the resident's address, in dense bushland and at the base of a steep embankment at Chatfield Park.
- 1.4 Due to the location of the sewer manhole, the hoses of the trailer mounted jet rodder, normally used to clear sewers, were unable to be used.
- 1.5 After several unsuccessful attempts to clear the blocked sewer pipe, and in accordance with LCC documented water operations procedures, hand operated sewer drain rods with a square bar corkscrew bit (the device) were used to remove what was believed to be tree roots in the pipe between two manholes.
- 1.6 The device is operated using a handle, which are two metal bars that screw into the head on either side and can be unscrewed again for storage. They were not welded or otherwise locked in place. The rods were screwed together with a corkscrew metal tool at one end.
- 1.7 Once assembled, the device is inserted into the blocked drain or sewer from an access point and used to attempt to clear a blockage by turning the handles manually. This causes pressure and tension to build up which then turns the auger type corkscrew through the debris and allows the debris/blockage to be pulled out from the sewer line.
- 1.8 After several attempts to clear the blockage, one of the operators was twisting the handles of the sewer rod when one of the screw-in handles disengaged causing the operator to lose control of the rod assembly.

- 1.9 Due to the pressure build up in the rods, the handle and rods spun violently, striking the operator in the face and causing a fractured jaw and cheekbone, dental damage, and lacerations to the lips.
- 1.10 Following investigations by Workplace Health and Safety Queensland (WHSQ) inspectors, prosecution action was commenced by the Work Health and Safety Prosecutor (by complaint and summons) against the LCC, for failing to comply, so far as reasonably practicable, with their health and safety duties under section 19(1), contrary to section 32 of the WHS Act.
- 1.11 On 5 November 2020, the LCC notified the Office of Industrial Relations (OIR) Enforceable Undertakings (EU) Unit of their intention to give a WHS undertaking (undertaking) for this matter.
- 1.12 On 14 September 2021 and 11 May 2022, an Evaluation Panel (panel) evaluated the LCC's initial undertaking and subsequent revised undertaking including all supporting documentation.
- 1.13 Initially, the panel were not willing to recommend acceptance of the undertaking. The panel provided the LCC with written feedback and advised they were willing to re-evaluate a revised undertaking if it appropriately addressed the feedback.
- 1.14 On 13 April 2022, the LCC submitted a revised undertaking and updated supporting documents.
- 1.15 On 11 May 2022, following a return evaluation, the panel unanimously recommended the revised undertaking be considered for acceptance as an EU.

2 Legislation and Policy

- 2.1. It is alleged that the LCC failed to comply with section 32 of the WHS Act.
- 2.2. Pursuant to section 216 (1) of the WHS Act the WHS regulator may accept a written undertaking given by a person in connection with a matter relating to a contravention or alleged contravention by the person of the WHS Act.
- 2.3. The Deputy Director-General (DDG), OIR has been appointed as the WHS regulator by the Governor in Council under Schedule 2, Part 1 of the WHS Act.
- 2.4. OIR provided the LCC with the relevant publications outlining information regarding the OIR EU Program and the WHS regulator's expectations for giving an undertaking.
- 2.5. Pursuant to section 216(4) of the WHS Act, the WHS regulator must issue, and publish on the WHS regulator's website, general guidelines in relation to the acceptance of WHS undertakings under the WHS Act.
- 2.6. Section 217(1) of the WHS Act provides that the WHS regulator must give the person/s seeking to give an undertaking written notice of the decision to accept or reject the undertaking and the reasons for the decision.

3 Material and evidence considered by the WHS regulator

- 3.1. In making a decision regarding this matter, the WHS regulator has considered the following documents:
 - 3.1.1. *Work Health and Safety Act 2011, [Part 11; section 3].*
 - 3.1.2. *Guidelines for the acceptance of an enforceable undertaking - dated November 2017.*
 - 3.1.3. Revised WHS undertaking dated 13 April 2022.
 - 3.1.4. Complaint and Summons - LCC dated 21 July 2020.

- 3.1.5. Statements of Facts – LCC.
- 3.1.6. OIR's Statement of compliance history – LCC – dated 16 November 2020.
- 3.1.7. Self-Insurer Compensation History – LCC – dated 12 November 2020.
- 3.1.8. Financial Capability – LCC – dated 22 January 2021.
- 3.1.9. EU Unit Chronology Statement – LCC dated 6 May 2022
- 3.1.10. Initial Evaluation Panel feedback – LCC – dated 18 October 2021.
- 3.1.11. Return Evaluation Panel Assessment – LCC – dated 11 May 2022.

4 Findings on material questions of fact

- 4.1. I regard the *Guidelines for the acceptance of an enforceable undertaking* dated November 2017, contains considerations which are relevant and appropriate to my decision.
- 4.2. I find the undertaking given by the LCC 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 contraventions is as set out in section 1 of the undertaking given by the LCC.
- 4.4. I find that the procedural history relating to the undertaking is set out in paragraph 1 above.
- 4.5. I find the objective gravity of the alleged contravention by the LCC is 'medium'.
- 4.6. I find the quantum of the undertaking and the respective financial commitments of the LCC are proportionate to the objective gravity of the alleged contraventions by the LCC and account for the benefits that would accrue to them through avoiding prosecution.
- 4.7. I find that the LCC have acknowledged the alleged contraventions and shown regret regarding the occurrence and the consequences of the alleged contraventions.
- 4.8. I find that the LCC, who have a health and safety duty under the WHS Act failed to comply, so far as reasonably practicable, with that duty contrary to section 32 of the WHS Act.
- 4.9. I acknowledge the assurance given by the LCC that the behaviour that led to the alleged contravention has ceased and the commitment to ensuring the ongoing effective management of risks to health and safety in the future.
- 4.10. I find the undertaking commits the LCC to a standard that is higher than the recognised compliance for the activity and to activities over and beyond recognised compliance levels.
- 4.11. I find the undertaking would constitute tangible benefits for workers, industry and the community as LCC are committing to:
 - 4.11.1. Disseminating information about the undertaking to all staff, the mayor and elected council representatives, the WHS committee and in the LCC's Annual Report.
 - 4.11.2. Purchasing an additional high powered Jet Rodder, as a spare for on-call work crews, that will be truck mounted to improve accessibility and manoeuvrability to worksites.
 - 4.11.3. Engaging a third party engineering consultant to research and compare current LCC methodology and that of neighbouring authorities, in best

practice and emerging technologies for the effective management of blocks and chokes in areas of access difficulty.

- 4.11.4. Delivering “This is Health and Safety Workshops” via face-to-face workshops, team briefs and toolbox talks, and e-learning modules, as part of the LCC’s Wellbeing Program and improvements to their Occupational Health and Safety System (OHSMS).
- 4.11.5. Engaging a third party OHS consultant to assist the LCC with developing, facilitating and implementing the OIR’s Participative Ergonomics for Manual Tasks (PERforM) Program. Safety strategies identified will be developed and implemented as part of the PERforM Program.
- 4.11.6. Engaging a third party auditor to conduct a risk assessment of all LCC tools and equipment with a focus on high risk/low use. The LCC will then develop a verification of competency matrix to identify employee competency levels and ensure training is provided for the specified tools and equipment if and where required.
- 4.11.7. Engaging a third party auditor to conduct an audit and follow up audit of the LCC’s contractor management process to identify any gaps, training requirements and other areas for improvement in the current process. The LCC will also employ an internal dedicated resource (no costs attributed to this undertaking) to facilitate this program and ensure ongoing continuous improvement to contractor management.
- 4.11.8. Trialling ‘Risk Talk’, a voice powered workplace safety application which enables work crews to complete safety assessments and work planning verbally, rather than using the current paper based job safety environmental analysis. If the trials are successful, the LCC intends to roll out the application for use on appropriate worksites. The LCC have demonstrated this technology to WHSQ officers with positive reviews and will continue to liaise with WHSQ’s Regional Operations Manager regarding the trial and implementation of the application.
- 4.11.9. Employing a dedicated Principal Health and Safety Advisor for an initial three years to manage the development of this undertaking and then transition into a project management, compliance and reporting role associated with all activities within this undertaking.
- 4.11.10. Engaging an accredited third party auditor to conduct two audits of the LCC’s OHSMS, in addition to the LCCs scheduled Self Insurance Audit that is conducted every three years. All audit reports, intended actions and actions implemented as a result of the three audits, will be provided to OIR under the terms of the undertaking to ensure compliance.
- 4.11.11. Presenting and sharing lessons learnt from the incident and any associated outcomes from this undertaking at a Q-Water Safety Forum, all other relevant general safety forums, and at Local Council forums.
- 4.11.12. Providing an annual vocational internship (over three years) for students completing a Bachelor of Occupational Health and Safety through the University of Queensland. Students will be supervised by the new Principal Health and Safety Advisor, recruited to manage this undertaking, with input from degree qualified LCC safety management staff. Students will be involved in the preventative maintenance and best practice drain blockage clearance research activities.
- 4.11.13. Developing a “Community Learning and Development Program” that will provide assistance and expertise through four free workshops and training sessions for community members, services, and organisations.

4.11.14. pay OIR's recoverable costs associated with this undertaking.

4.12. I acknowledge that panel members have recommended acceptance of the undertaking as an appropriate enforcement outcome in the circumstances of this case.

5 Decision

- 5.1 In making my decision, I have considered and had regard to the evidence and other material referred to in paragraph 3 above, and to the facts I have found referred to in paragraph 4 above.
- 5.1 Because the proposed undertaking given by the LCC meets the formal requirements of the WHS Act and policy requirements, my discretion whether to accept the undertaking under section 216(1) of the WHS Act is enlivened.
- 5.2 Based on the evidence, findings and having regard to the objects of the WHS Act, I have carefully considered this matter and am of the opinion that the undertaking given by the LCC is an appropriate enforcement option in regard to this case.
- 5.3 I have concluded that an EU is the preferred enforcement option, rather than continuing with the prosecution, due to the opportunity to provide lasting organisational change within the LCC and the implementation of monitored and targeted health and safety improvements that will deliver benefits to workers, industry and the community, which may not be achieved by prosecution.
- 5.4 Under section 216(1) of the WHS Act, it is my decision to accept this undertaking as an EU.



Jodie Deakes
Acting Deputy Director-General
Office of Industrial Relations

09/06/2022