

# **ENFORCEABLE UNDERTAKING**

*Part 11, Work Health and Safety Act 2011*

The commitments in this undertaking are offered to the regulator by

**ME Christensen & Co Pty Ltd**  
**as Trustee for the Ron Field Family Trust (the person)**

**ABN: 28321472885**

## 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 operating as a legally binding commitment on the part of the person from the date it is given.

## DEFINITIONS

**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 a 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.

## 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

## SECTION 1: GENERAL INFORMATION

### 1.1 Details of the person giving the undertaking

**Nominated person:** ME Christensen & Co PTY LTD (MEC)  
**Street address:** 16-18 Centenary Place, Logan Village, Queensland. 4207  
**Mailing address:** 16-18 Centenary Place, Logan Village, Queensland. 4207  
**Telephone:** (07) 55463111  
**Email address:** admin@mechristensen.com.au  
**Legal structure:** proprietary limited company  
**Type of business:** Manufacturing  
**Commencement date:** 1983  
**Workers:** Full time: 7  
Part-time: Nil  
Casual: 2

**Products and services:** MEC manufactures custom Polyvinyl Chloride (PVC) fittings and Rotational Molded Polyethylene products.

**Comments:** An Enforceable Undertaking (EU) will allow an opportunity for MEC to improve safety culture and generate lasting organisational change throughout the company. This will be achieved through the implementation of monitored and targeted health and safety improvements; therefore, the EU will deliver the more appropriate enforcement option and provide beneficial outcomes for the workers, industry, and the community as a whole.

## 1.2 Detail the contravention

It is alleged that on 12 January 2016, MEC failed to discharge its health and safety duty under section 21(2) of the *Work Health and Safety Act 2011*, contrary to section 32 of the said act and the failure exposed an individual to a risk of death or injury.

## 1.3 Detail the events surrounding the contravention

On 12 January 2016, the injured worker was assisting a co-worker with cutting vertical slots into 50millimetre PVC pipe. The process of cutting vertical slots involved the use of a vertical slotting machine, which has nine DeWalt 4.5inch grinders mounted on it. During operations, one of the unguarded grinders came in contact with the workers right hand causing a severe laceration.

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

Date issued	Notice type	Notice number	Contravention prohibited activity	Action taken in response to notice
18/01/2016	Prohibition notice	P1009659	Operating Slotting machine	<ol style="list-style-type: none"><li>1. Completely dismantled the Slotting machine to satisfy it was inoperable.</li><li>2. Outsourced the remainder of the current order to a third -party company for completion.</li><li>3. Advised all staff members that under no circumstances were they to attempt to reconstruct the slotting machine or access the slotting machine parts.</li></ol>



28/04/2016	Improvement Notice	1008007	Operating the Slotting machine	<ol style="list-style-type: none"> <li>1. In consultation with industry experts, completely designed, engineered and implement machine safeguards, consequently, eliminating the risk of injury reoccurring.</li> <li>2. Coordinate with government officials such as WH&amp;S Officers to gain support and approval for the safeguards design and subsequently implementation.</li> <li>3. Completely redesigned, engineered and implement changes to the slotting machine to safely allow single person operation. In doing so, any trained operator would have direct access to the safety shutdown switch</li> <li>4. Comprehensive re-induction and indepth safety and operational training for all staff</li> <li>5. Developed a selection process for Slotting machine operators ensuring only the most experienced senior staff members use the machine. Slotting machine now kept locked and is unable to be operated without a key. The key is stored in a safe that can only be accessed by the Managing Director or Factory Supervisor</li> <li>6. Extensive retraining for selected Slotting machine operational staff. Detailing newly developed Safe Work Practices (SWP)</li> </ol>
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**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**

Severe laceration to the right hand

**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 **X**
- a self-employed worker/s ☐
- other - [Enter details of 'other' here] ☐
- not applicable ☐

Status: The injured worker was approved for Workcover and cleared to return to work on 28/2/17. The worker is no longer employed at MEC

**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
12/1/16	Immediately following the incident, the worker was provided first aid treatment from the MEC First Aid Officer	The MEC First Aid Officer is an ex-nurse with over 10-years' experience
12/1/16 – 13/1/16	MEC Management was deeply concerned regarding the welfare of the injured worker, therefore two senior Management members attended the hospital.	Management attended the hospital and proceeded to be on hand during and after the surgery. As the injured worker had little family in Brisbane, MEC management endeavoured to ensure the injured worker was as comfortable as possible. MEC management offered emotional and practical support such as paying for the TV subscription etc. In addition, MEC offered future professional psychologic support and any additional assistance required such as physiotherapy etc.
13/1/16	MEC wanted to assist by any means possible, therefore MEC proceeded to gather any personal items requested from the worker.	MEC Management collected personal items from the injured workers home and delivered the items to the hospital.

15/1/16 – 18/2/16	Management continuously attempted to contact the injured worker via the only contact number for the worker. MEC left messages via voice mail and sent text messages, to inquire as to the worker's situation and recovery process.	No contact was successful until the injured worker made contact via a new phone number that was unknown to MEC. The injured worker acknowledged the contact attempts made from MEC. The injured worker expressed how they looked forward to coming in to see the MEC team.
25/2/16	MEC Management arranged a post-incident debrief with the injured worker and the rest of the workforce. A reflective lunch was held and support given to all.	The injured worker was in good spirits during this visit and this was well received by all. Open meaningful conversation was undertaken by all parties.
29/2/16	MEC engaged an Employee Assistance Programs (EAP) Counsellor to provide critical incident service	MEC offered workers professional support service on a group and one-on-one basis. Additional ongoing support was also offered.

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

At the time of the incident, MEC had minimal documented procedures for work activities conducted in the workplace. This would not be considered a formal documented system appropriate to the regulator as required in clause 3.8.

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

A qualified third-party auditor performed annual audits at MEC since around 2012. MEC appointed a new Managing Director (MD) in January 2016, the new MD increased compliance inspections from an annual event to a bi-annual event. MEC believed that the recommendations (and sequentially implementation) that were being made by the qualified third-party auditor would make the business a safe place to work.

MEC is confident that by executing the qualified third-party auditor recommendations raised during audits, brought about significant improvement to the safety culture and awareness. MEC has improved to the point where MEC can return to conducting annual audits in the foreseeable future. Furthermore, as part of MEC commitment to providing an extremely safe workplace and as part of MEC EU, MEC is in the process of implementing an Occupational Health and Safety Management Systems (OHSMS) that conforms to AS/NZS 4801:2001 & BS OHSAS 18001. The OHSMS will be audited by a qualified third-party auditor in accordance with EU terms 3.7 – 3.10.

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

MEC wanted to take a holistic view to the EU to engrain a safety philosophy into MEC culture. To achieve this, numerous tools and methodologies were deployed such as; systems thinking, 5 Whys and root cause analysis. Consultation was sought from a plethora of stakeholders including; employees, MEC management, MEC directors, industry, legal professionals, academics, government and occupational health and safety experts. Results were analysed and problem framing techniques were used to derive the proposed EU. This methodology enables MEC to provide the safest workplace possible through providing tangible benefits for workers, industry, and the community as a whole.

The ongoing consultation will transpire with; Registered Training Organizations (RTO), OIR, Workplace Health and Safety Queensland, Workcover, accredited Auditors, OH&S experts, the workers and industry.

#### **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**

In consultation with industry experts, MEC completely designed, engineered and implemented specific machine safeguards. Consequently, this has eliminated the hazard and reduced the risk of injury reoccurring

- a) Coordinated with Workplace Health and Safety Queensland to gain support and approval for the safeguards design and subsequently implementation.
- b) Completely redesigned, engineered and implemented changes to the slotting machine to safely allow single person operation. In doing so, any trained operator would have direct access to the safety shutdown switch.
- c) Comprehensive re-induction and in-depth safety and operational training for all staff.
- d) The selection process for Slotting machine operators ensures only the most experienced senior staff members use the machine. Slotting machine is now kept locked and is unable to be operated without a key. The key is stored in a safe that can only be accessed by the Managing Director or Factory Supervisor.
- e) Extensive retraining for selected Slotting machine operational staff. Detailed newly developed Safe Work Practices(SWP).
- f) Tailored new Health Safety, Environment and Quality (HSEQ) System.
- g) Increased qualified third-party auditor inspections from an annual event, to a bi-annual event in an effort to improve the safety of the workers.



- h) Toolbox Talks across all areas discussing the importance of training prior to working with machinery and risk identification and management.

Total amount spent on rectifications

\$5,000

## 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**

It is acknowledged that the regulator has alleged that M.E Christensen & Co. Pty Ltd has contravened provisions of the *Work Health and Safety Act 2011* (QLD) and failed to discharge its health and safety duty under section 21(2) of the *Work Health and Safety Act 2011*, contrary to section 32 of the said act and the failure exposed an individual to a risk of death or injury.

### **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**

MEC sincerely regret the incident that occurred on 12<sup>th</sup> January 2016 and furthermore would like to express its sympathy to the injured worker and to their family.

The Directors of MEC were deeply affected by the Incident and have demonstrated remorse. MEC is committed to protecting workers from the risks to health and safety to a level beyond required compliance. This EU will allow MEC the opportunity to provide lasting beneficial organizational change. MEC considers that the quantum of the undertaking is a proportionate amount relevant to the objective gravity and commensurate with a likely penalty in this case. Consequently, the EU will deliver the appropriate enforcement option and most beneficial outcome for the workers, industry, and the community as a whole.

## **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**

MEC, its Directors, management and staff are fully committed to complying with their obligations under the *Work Health and Safety Act 2011*. MEC as far as reasonably practicable, have eliminated the causal factors of the alleged contravention set out in section 1.11. MEC has already revised risk controls and undertakes to complete actions set out in section 3 of the enforceable terms.

MEC is committed to changing and improving the safety culture of the company that previously had no compliance procedure, to a company that can achieve industry excellence. To achieve this, MEC is changing from a reactive safety-minded organization to that of a proactive safety minded. MEC long-term safety strategy is to ultimately have a generative approach to all safety related matters and this be deeply ingrained into the culture.

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

I have read and understood:

*Guidelines for the acceptance of an enforceable undertaking*

Version: 1 Dated: 18 August 2017

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

2.5.1 ME Christensen & Co Pty Ltd acknowledges that the undertaking may be published on the OIR's website and referenced in OIR material.

2.5.2 MEC 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 MEC has the financial ability to comply with the terms of this undertaking and have provided evidence by way of letter of confirmation from MEC accountant with this undertaking to support this declaration.

2.6.2 In the event of impending liquidation or sale of the entity, MEC 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**

MEC can confirm that it has no relationship between 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**

MEC grants OIR a permanent, irrevocable, royalty-free, worldwide, 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**

MEC is 100% committed to the provision of a safe workplace. As part of MEC's mission, MEC is rolling out a detailed safety culture change program. The objective of this is to engrain a safety leadership and safety-first philosophy throughout all staff. MEC, in its endeavour to provide a safe workplace, has already undertaken numerous activities that not only ensure MEC complies with the *Work Health and Safety Act 2011* but achieves a greater standard. This is evident by the engagement of a Group Health and Safety Manager to oversee the EU and ensure compliance.

MEC has identified that improvements were needed in its approach to ensuring that every worker gets home safe. As part of the safety culture change program, MEC has set out a roadmap to assist in implementing actions that will improve safety culture within the organisation.

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

MEC gives a formal assurance that the benefits of this undertaking will be promoted to internal and external stakeholders on an ongoing basis. In addition, MEC will announce and promote at the "annual MEC safety day" (3.3.1). That the safety day is a result of the EU and agreement between MEC and the OIR regulator.

## **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**

Dissemination will be achieved by doing the following:

MEC will disseminate all EU information via the company notice board and site amenity news flyers. In addition, private meetings will be held with the MEC's Managing Director, WHS manager and every staff member. Copies of the EU will be provided to each staff member prior to the EU information sessions and allowances made for the staff to read and ask questions.



MEC has been very transparent with all stakeholders regarding the EU and disseminating the information. MEC felt honest open communication between all stakeholders was the best method of achieving a safe workplace. Furthermore, enabled MEC to develop meaningful projects that will benefit the workers, the industry and the community as a whole.

Evidence of the dissemination will be provided to the OIR within one month of acceptance of the EU in the means of:

1. The signed attendance record of the EU meeting.
2. A signed statement from all staff members confirming they have received a copy of the EU.
3. In-situ photo evidence that the EU is posted on the notice board and site amenity news flyers.

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

Preamble:

MEC is a small family run business that employs 7 local staff members. The process of developing the EU has helped identify that MEC needs to transmute from an 'old school' reactive style of manufacturing and safety to that of a 'new-aged' proactive or generative approach to safety. To achieve this MEC has identified that there needs to be a culture change and has taken the arduous task to hand.

MEC has endeavoured to undertake substantial organizational change and operational improvements regarding safety systems. MEC has developed a new safety campaign that is leading the culture change ('**MEC**, wants **YOU** and **ME**, to stay **INJURY FREE**'). The rollout of the new motto includes a strong emphasis on open communication, risk management/auditing and training.

As part of this EU, MEC has focused on the key aspects of the hierarchy of hazard control to eliminate or substitute hazards and reduce risks. As a result, large capital investment has been undertaken to improve machinery to a standard that would be considered beyond the requirements of the WHS Act.

Activities: OHSMS System Development.		Minimum Cost	Timeframe & Evidence
3.2.1	<p>Engage a Workplace Health and Safety Manager (WHS) to manage the EU and the compliance of the commitments (\$59,280 per year of the EU).</p> <p>Please note: Costing of some other activities has been included in this minimum cost and will be identified throughout.</p> <p>Benefit and Deliverable: Undertaking many of the proposed activities, develop a safety leadership approach and drive the culture change. Managing the risk management process and prevention through design process. The outcomes of this appointment will be a full-time staff member overseeing the implementation and improvement of MEC WHS to that of a standard higher than required under the Work Health and Safety Act 2011. In turn, this will lead to an OHSMS that is considered above the industry standard</p>	\$177,840	<p>Timeframe: Within 3 months of acceptance.</p> <p>Evidence Post appointment position description and successful candidate's actual application for the role of WHSE Manager will be provided. Yearly pay summaries for the WHSE Manager will be provided for the term of the undertaking as evidence that the WHSE Manager's role is ongoing.</p>
3.2.2	<p>Undertake AS/NZS 4801:2001 &amp; BS OHSAS 18001 accreditation from a JAS-ANZ accredited company (with yearly audits from certified parties and letter of confirmation confirming the report has not been altered from the original and details of the auditor's qualifications (\$2900 for the first year \$2300 a year after that). MEC is committing to continuing with accreditation past the life of the EU.</p> <p>MEC will address any items deemed not to the AS/NZS 4801:2001 standard. An action plan will be developed and sent to the OIR addressing said items. The following audit will confirm the items has been addressed and conform to AS/NZS 4801:2001 standard. This will also apply to the last audit conducted at the end of the EU. Therefore, complying with terms 3.7 – 3.10 of the EU.</p> <p>Benefit and Deliverable: of the EU. Effective OHS policy and objectives. Can establish, assess, and review own OHS procedures in accordance with AS/NZS 4801:2001.</p>	\$7,500	<p>Timeframe: Within 6 months of acceptance and every 12 months Thereafter.</p> <p>Evidence: Tax invoice and confirmation of undertaking by certifying party to be sent to the OIR.</p>
3.2.3	<p>Complete the Injury Prevention and Management (IPaM) program with Workplace Health and Safety Queensland (WHSQ) and WorkCover Queensland.</p> <p>Benefit and Deliverable: Designed to help MEC develop better workplace health, safety and injury management systems.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 24 months of acceptance.</p> <p>Evidence: Letter of confirmation from Workplace Health and Safety Queensland.</p>
3.2.4	<p>Commence a detailed risk assessment and risk reduction program to be completed by the WHS Manager. A detailed action plan will be developed and forwarded to the OIR.</p> <p>Benefit and Deliverable: Hazard identification, risk analysis, and risk evaluation and risk control.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 12 months of acceptance.</p> <p>Evidence: Detailed report to be sent to OIR.</p>

3.2.5	<p>Implement a web-based safety management software system (\$124 a month over the life of the EU). This amount includes initial training for management who will then conduct inhouse training for all staff members. MEC intends to retain this system beyond the life of this undertaking.</p> <p>Features and functionality:</p> <ul style="list-style-type: none"> <li>➤ Incident Reporting and Investigation – allows online reporting and investigation of OHS and environmental incidents.</li> <li>➤ Hazard or Action Reporting and Management – allows online reporting of hazards, repair and maintenance, identified workplace improvements; and monitoring of each corrective action until close-off.</li> <li>➤ Workplace Inspections / Checklists – this module will allow your workplace inspections, checklists and audits to be loaded into safety management software system and scheduled for completion with your timeframes. Corrective actions identified during the inspection are tracked via the Action module.</li> <li>➤ Safety Planning / Compliance Management – allows recurrent tasks to be established and allocated to individual workplaces. Manage preventative maintenance (i.e. plant and/or equipment scheduled maintenance, electrical testing and tagging, emergency management schedules for fire equipment, etc.), meeting schedules (i.e. safety committee), vehicle registration, PPE expiry, annual emergency trail evacuation planning, etc.</li> <li>➤ Training – allows individual worker training records to be managed and monitored. Alerts are issued as training approaches expiry. This is used by clients to manage First Aid Training, High Risk Work Licences, Drivers Licences, etc.</li> <li>➤ Chemical Management – this allows Safety Data Sheets (SDS) to be uploaded, accessible to all workers and expiry date tracked. SDS can be assigned to each workplace location. This means that the Chemical Register can be contextualised for each workplace. Updating SDS that are approaching expiry can be done at one point.</li> <li>➤ Evidence and Records Management – the Document Management and Version Control module is typically used to manage policies, procedures, forms and templates. This module allows the records that are uploaded at sign-off, which demonstrate a task or activity being completed, to be managed within one location. This supports easy recall at the time of audit, and/or review.</li> </ul> <p>Benefit and Deliverable: Improved information flow, real-time monitoring and OHSMS system improvement. Assist with AS/NZS 4801:2001 compliance and the OHSMS.</p>	\$4,464	<p>Timeframe: Within 6 months of acceptance.</p> <p>Evidence: Tax invoice and a letter from providing company will be sent to OIR. Moreover, screen dumps of the Safety Software menu from the MEC network and 10 examples of documents relevant to the OHSMS will be sent to the OIR.</p>
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3.2.6	<p>Purchase two mobile tablets and protective casing for integration into the safety management software. One will be utilized by the factory supervisor and the other set on the factory floor so other staff members can access and report on safety-related matters.</p> <p>Benefit and Deliverable: Real-time transfer of information from site floor to office. Improved access and ease of use for safety reporting and monitoring.</p>	\$700	<p>Timeframe: Within 6 months of acceptance.</p> <p>Evidence: Tax invoice will be sent to OIR.</p>
3.2.7	<p>Safety leadership training for the appointed Safety Committee. Conducted by a qualified trainer and assessors (Vocational Education and Training sector (VET))</p> <p>Training will be contextualized and key aspects drawn from:</p> <ul style="list-style-type: none"> <li>➤ BSB41415 (Certificate IV in Work Health and Safety) units BSBWHS404 (Contribute to WHS hazard Identification, risk assessment and risk control), BSBWHS403 (Contribute to implementing and maintaining WHS consultation and participation process) and BSBWHS405 (Contribute to implementing and maintaining WHS management system).</li> <li>➤ Safety Leadership at Work (SLAW),</li> <li>➤ Young Workers Safety Toolkit,</li> <li>➤ Healthy Worker Initiative programs</li> <li>➤ Injury Prevention and Management (IPaM)</li> <li>➤ Participative Ergonomics for Manual Tasks (PERforM)</li> <li>➤ Master classes held by the OIR</li> <li>➤ Information obtained from <a href="http://www.worksafe.qld.gov.au">www.worksafe.qld.gov.au</a></li> </ul> <p>Please note: This training will not be held in conjunction with an RTO. However, advice will be sort from other VET trainers and RTO's conducting activities (3.2.9 &amp; 3.2.11)</p> <p>Benefit and Deliverable: Safety culture development through Employee buy-in and empowerment. Increased level of safety control system. Strong focus on proactive safety measures. SOP/SWP audits and compliance monitoring.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 3 months of acceptance and every 6 months therefore for the term of the undertaking.</p> <p>Evidence: Content of the training modules, attendance records and minutes of meetings to be sent to the OIR every 6 months.</p>
3.2.8	<p>Perform safety walks, done each day by safety manager and one time a week by all management.</p> <p>Benefit and Deliverable: Proactive safety checks, safety idea generation by employees on the tools, extensive audit of a job site.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 2 months of acceptance.</p> <p>Evidence: Copy of safety walk report to be sent to the OIR every 6 months.</p>
<b>Activities: Staff &amp; Management Safety Training</b>		<b>Minimum Cost</b>	<b>Timeframe &amp; Evidence</b>



3.2.9	<p>Management employee to complete BSB41415 (Certificate IV in Work Health and Safety) This will be completed with a Registered Training Organisations (RTO) that specializes in small manufacturing business and contextualization to the workplace.</p> <p>Benefit and Deliverable: Management learning how to identify workplace health and safety hazards, assess and control risks, ensure compliance with current legislation and consult employees on WHS issues.</p>	\$2,000	<p>Timeframe: Within 2 months of acceptance.</p> <p>Evidence: Tax invoice and confirmation of enrolment to be sent to the OIR within 3 months of acceptance.</p> <p>Course to be completed 12 months from that date, confirmation of completion will be sent to the OIR.</p>
3.2.10	<p>Develop and deliver in-depth training to staff on safe work procedures and safety. Delivered by MEC's WHS Manager (VET sector qualified trainer and assessors with Language Literacy and Numeracy (LLN) experience and qualifications). This ensures training is developed in a way that ensures the highest level of comprehension is achieved from the employees.</p> <p>Benefit and Deliverable: Integral part of the risk management process as it outlines the hazards, risks and associated controls measures to be applied to ensure the task/activity is conducted in a way to reduce the risk of injury.</p>	Costing of activity included in 3.2.1.	<p>Timeframe: Within 3 months of acceptance and every 6 months after that for the duration of the EU.</p> <p>Evidence: Attendance record and minutes of meeting and training material to be sent to the OIR.</p>
3.2.11	<p>Commence Vocational Education and Training (VET) sector training from Registered Training Organisations (RTO):</p> <ul style="list-style-type: none"> <li>➤ 2 employees will complete a Certificate 4 in Engineering with an emphasis on safety in the workplace and act as mentors and safety leaders.</li> <li>➤ 3 employees will complete a Certificate 3 in Engineering with an emphasis on safety in the workplace.</li> </ul> <p>Benefit and Deliverable: Safety training, SOP/SWP development and understanding, provide meaningful long-term employment.</p>	\$15,000	<p>Timeframe: Within 12 months of acceptance. Training to be completed 12 months from then.</p> <p>Evidence: Tax invoice and confirmation of enrolment and completion to be sent to the OIR.</p>
3.2.12	<p>Develop and maintain an employee skill matrix. This will then be translated into the MEC induction program that will be updated and reviewed.</p> <p>Benefit and Deliverable: Allowing identification of skill gaps that may mature to future safety concerns. Provide a planned systematic approach to induction, training and competency ensuring staff have the skills and experience needed to perform work in a safe manner.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 9 months of acceptance.</p> <p>Evidence: Copy of updated induction program referencing the skills matrix document to be sent to the OIR.</p>

3.2.13	<p>Undertake the Participative Ergonomics for Manual Tasks (PERforM) program. This allows MEC to develop and implement a manual tasks program and reduce associated risks.</p> <p>Key findings and program learnings will be communicated at the MEC annual safety day (3.3.1).</p> <p>Benefit and Deliverable: Framework for MEC to engage with the workers at all levels and identify, access and control manual tasks risks at MEC.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 24 months of acceptance.</p> <p>Evidence: An action plan, risk register and report on progress will be sent to the OIR.</p>
3.2.14	<p>Implement monthly safety toolbox talks.</p> <p>Benefit and Deliverable: Reinforce SOP, supplement the WHS training efforts of MEC and keep safety front of mind. Each staff member to present on a safety-related topic regarding their area of work. Disseminate information relating to the EU.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 1 month from acceptance and every month thereafter for the term of the undertaking with evidence provided for each.</p> <p>Evidence: Attendance record and agenda of the meeting will be sent to the OIR every 6 months.</p>
3.2.15	<p>Implement 3 toolbox talks with employees and a skilled industry subcontractor (skilled in the area of importance to MEC staff, focusing on safety).</p> <p>Benefit and Deliverable: External expertise creating knowledge transfer, ability to contextualize training to MEC safety needs.</p>	\$300	<p>Timeframe: Within 6 months from acceptance then at 18 months and 30 months from acceptance with evidence provided for each.</p> <p>Evidence: Tax invoice, attendance record and minutes of the meeting will be sent to the OIR.</p>
3.2.16	<p>Conduct an internal communication workshop targeting upwards communication in the workplace regarding safety (modelled off the Communications Planning Section of Communications Nova Scotia). Training to be conducted by MEC's WHS manager (VET sector qualified trainer and assessors)</p> <p>Benefit and Deliverable: Improved information flow, ability to raise concerns with management and supervisors.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 9 months of acceptance and then each 12 months thereafter for the term of the EU with evidence provided for each.</p> <p>Evidence: Attendance record and minutes of training will be sent to the OIR.</p>
3.2.17	<p>Implement a 360-degree feedback program, to ensure clear open level of communication and organization development. This also allows authentic conversations to be had about safety in the workplace.</p> <p>Benefit and Deliverable: Improved information flow, ability to raise concerns with management and supervisors. Allows management to self-reflect and implement new improved safety systems. Also allows management to gauge comprehension levels of safety training.</p>	Costing of activity included in 3.2.1	<p>Timeframe: Within 24 months of acceptance</p> <p>Evidence: Attendance record and minutes of training will be sent to the OIR.</p>

3.2.18	Commit the two staff members that use the company car on the public roads to attend a defensive driving (Queensland level 1 course).  Benefit and Deliverable: Managing and reducing risks associated with driving.	\$398	Timeframe: Within 36 months of acceptance.  Evidence: Completion certificates and tax invoice will be sent to the OIR.
	<b>Activities: Safety Equipment Upgrades</b>	<b>Minimum Cost</b>	<b>Timeframe &amp; Evidence</b>
3.2.19	Purchase and implement pallet lift systems which allow employees who are unloading pallets to be able to jack the pallet up to a height, e.g. their waist or chest.  Benefit and Deliverable: Allows employees to unload the pallet without having to bend down, which reduces injuries such as back problems. Eliminate or substitute hazards and in turn, reduce the risk.	\$3,500	Timeframe: Within 3 months of acceptance.  Evidence: Tax invoice and insitu photos to be sent to the OIR.
3.2.20	Install an enhanced fume extraction system to remove fumes from the proximity of employees.  Please note as MEC is a manufacturing business that employs a casual engineer, costing is only for key aspects of the system. Most of the system was fabricated in-house.  Benefit and Deliverable: Eliminate or substitute hazards and in turn reduce the risk. Enhanced airflow.	\$400	Timeframe: Within 3 months of acceptance.  Evidence: Tax invoice and insitu photos to be sent to the OIR.
3.2.21	Install dust vacuum system to remove inhalable and inspirable dust particles, therefore, reducing the likelihood of pneumoconiosis. This will also reduce the likelihood of musculoskeletal disorders due to the reduction in bending and cleaning under machinery. Removing repetitive and sustained and awkward posture.  Please note; as MEC is a manufacturing business that employs a casual engineer, costing is only for key aspects of the system. Most of the system was fabricated in-house.  Benefit and Deliverable: Eliminate or substitute dangers or risks. Research conducted by Worksafe QLD also indicates that employees are at less risk of harm in a clean workplace.	\$800	Timeframe: Within 6 months of acceptance.  Evidence: Tax invoice and insitu photos to be sent to the OIR.
3.2.22	Install two gantry lift system to reduce back strain and reduce employee risk.  Benefit and Deliverable: Eliminate or substitute hazards and reduce the risk. Reduces employee risks such as musculoskeletal disorders.	\$2,822	Timeframe: Within 3 months of acceptance.  Evidence: Tax invoice and insitu photos to be sent to the OIR.



3.2.23	<p>Implement eight personal walkie-talkies for staff communication. Also, install recorded video monitoring for all staff throughout the factory floor.</p> <p>Benefit and Deliverable: Enables better communication and monitoring from management. In addition, Improved safety for staff working alone down the far end of factory and ability to advise all employees of hazards and emergencies (e.g. slip hazard).</p>	\$1,500	<p>Timeframe: Within 8 months of acceptance.</p> <p>Evidence: Tax invoice and insitu photos to be sent to the OIR.</p>
3.2.24	<p>Undertake professional ergonomics assessment of the office and implement recommendations.</p> <p>Benefit and Deliverable: designs or modifies the work to fit the worker, not the other way around. The goal is to eliminate discomfort and risk of injury due to work.</p>	\$2,000	<p>Timeframe: Within 18 months of acceptance.</p> <p>Evidence: Tax invoice, professional report and in-situ photos to be sent to the OIR.</p>
3.2.25	<p>Professional third-party audit of MEC traffic management plan and implementation of any recommendations.</p> <p>Audit to be conducted by a certified auditor and letter of confirmation confirming the report has not been altered from the original and details of the auditor's qualifications will be provided to the OIR.</p> <p>Benefit and Deliverable: Higher order controls to manage and reduce the risks associated with vehicle and pedestrian movements, especially interactions between light and heavy vehicles, and pedestrians and vehicles. Engineering solutions to reduce the potential risks associated with road user behaviour or operator error.</p>	\$2,000	<p>Timeframe: Within 24 months of acceptance.</p> <p>Evidence: Tax invoice, audit report and action plan for completing identified issues. along with in-situ photos and documentation of completed works.</p>
<b>Total estimated cost of benefits for workers/others</b>		<b>\$221,224</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 & Evidence
3.3.1	<p>Every year for the term of the EU, MEC will sponsor and run a Safety, Health and Environment day to promote safety at Centenary Place Industry Park in Logan Village. This will include; BBQ, safety talk from guest speakers such as QLD GOV safety advocate &amp; Fire Fighters, MEC findings from the PERforM, IPaM &amp; SLAW Programs, free PPE handed out, etc. This will be held during the safe work week (October) \$1,000 per event over 3 years.</p> <p>MEC will also use this as an opportunity to communicate that the safety day is a result of the EU and agreement between MEC and the OIR regulator</p> <p>Benefit and Deliverable: There are many like-minded 'old school' small custom manufacturers in the Centenary Place Industry Park. It is hoped that the industry parks safety day will bring to light the importance of safety in the workplace and give business a platform for discussion on this matter.</p>	\$3,000	<p>Timeframe: Within 12 months of acceptance and then each 12 months thereafter for the term of the EU with evidence provided for each</p> <p>Evidence: Tax invoice and insitu photos will be sent to the OIR.</p>
3.3.2	<p>Engage a UQ OHS Science student for industry placement at MEC. This will assist the student to complete their studies.</p> <p>MEC will provide assistance in finding employment after the completion of their studies, by means of providing professional C.V services and other employment assistance options to a minimum value of \$500</p> <p>Student to give a presentation as part of their placement at the MEC safety day (3.3.1)</p> <p>Benefit and Deliverable: Industry placement is a requirement for all students in their final year of the Bachelor of Occupational Health and Safety Science (Hons). Work placement will provide real industry experience. The student will be expected to be present in the workplace during normal working hours for a duration of one semester (240 hours). During this time the student will undertake OHS related work as agreed between the workplace supervisor and the placement coordinator. Over the duration of the placement, it is anticipated that the student will be exposed to a range of OHS professional competencies and will reflect upon these in a work journal.</p>	\$500	<p>Timeframe: Within 36 months from acceptance.</p> <p>Evidence: letter from UQ confirming the agreement. Copy of tax invoice for C.V support services.</p>
<b>Total minimum cost of benefits for industry</b>		<b>\$3,500</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	Donation to the Queensland Fire and Emergency Services, Rural Fire Service to purchase Personal Protective Equipment for use by volunteers	\$5,000	Within 24 months of acceptance. (tax invoice and letter of acceptance to be supplied to OIR)
<b>Total estimated cost of benefits for the community</b>		<b>\$5,000</b>	

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

3.5.1 MEC 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
Legal costs	\$1100
Compliance monitoring costs	\$3410
Publication costs	\$1800
<b>Total of OIR recoverable costs</b>	<b>\$10124</b>

### 3.6 Minimum spend

3.6.1 ME Christensen & Co Pty Ltd acknowledges the minimum spend for this undertaking will comprise of the:

Estimated total value of	Minimum spend
Benefits to workers/others	\$221,224
Benefits to industry	\$3,500
Benefits to community	\$5,000
OIR recoverable costs	\$10,124
<b>Estimated total minimum spend for the undertaking</b>	<b>\$239,848</b>



- 3.6.2 MEC 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 establish and maintain an OHSMS**

- 3.7.1 MEC acknowledges there is no formal documented OHSMS in place.
- 3.7.2 MEC commits to ensuring that an 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* will be implemented within 12 months of the acceptance of this undertaking.

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

- 3.8.1 MEC acknowledges that there is no OHSMS in place, as detailed in term 3.7.1 that is acceptable to the regulator and commits to ensuring that an initial third party audit will be undertaken within six months of this undertaking being accepted.
- 3.8.2 MEC commits to ensuring at least two further third party audits will be undertaken at 12 month intervals, commencing 12 months after the initial 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.

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

- 3.10.1 MEC 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 MEC 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 MEC 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 MEC commits to providing a detailed action plan or statutory declaration by an authorised officer of the MEC 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)

Name of Company

was affixed in accordance with the

Corporations Act 2001 in the presence of

Rowan D Field

Name of Director

Signature of Director

and

Ronald R Field

Name of Director/Secretary

Signature of Director/Secretary

on the 20 day of 10, 2018

before me:

Signature of Witness

Name of Witness in full

Witness address

Witness address

Witness address



**SECTION 5: ACCEPTANCE**

This undertaking is accepted by the regulator on the 17<sup>TH</sup> day of DECEMBER, 2018

Signature of regulator

ANTHONY JOHN JAMES

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**

<b>Event No.</b>	233491
<b>Entity</b>	M E Christensen & Co Pty Ltd (MEC)
<b>ABN/ACN</b>	28321472885
<b>Entity Address</b>	16-18 Centenary Place, Logan Village, Qld
<b>Location of Incident</b>	16-18 Centenary Place, Logan Village, Qld
<b>Date of Incident</b>	12 January 2016

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

- 1.1 The undertaking relates to a workplace incident that occurred on 12 January 2016 at MEC located at 16-18 Centenary Place, Logan Village, Queensland.
- 1.2 The injured worker, had been employed by MEC as a factory hand/forklift operator for four days prior to the incident.
- 1.3 On the date of the incident, the injured worker was operating a custom made slotting machine to cut vertical slots into PVC (Polyvinyl Chloride) piping with a co-worker assisting.
- 1.4 The slotter machine is used to cut vertical slots into a 50-millimetre PVC pipe that is used by industry for drainage purposes.
- 1.5 The slotter machine was made up of nine unguarded 4.5 inch angle grinders (each with a fibre cutting disk) attached at 300mm centres along a straight metal frame. When the operator presses a button, the nine angle grinders attached to the metal frame would lower via two pneumatic rams onto the PVC pipe. While the cuts are being made, the operator holds one end of the PVC pipe and the co-worker assisting holds the other end to prevent any movement of the pipe.
- 1.6 Once the cuts have been made, the metal frame and grinders automatically return to their starting position, the PVC pipe is manually rotated by the two workers and the process is repeated until 54 cuts are made in each pipe.
- 1.7 After completing approximately half a crate of PVC pipes, the co-worker assisting took a break near the slotter machine. While the co-worker was taking a break, the operator began operating the slotter machine independently.
- 1.8 To stop the PVC pipe from moving while being cut, the operator placed the left hand on the end of the pipe and the right hand on the pipe directly below the first grinder.
- 1.9 As the metal frame lowered automatically, the rotating blade from the first grinder contacted the operator's right hand. This resulted in a severe laceration/partial amputation to three of the operator's fingers which required post-incident reconstructive surgery.
- 1.10 Following an investigation by Workplace Health and Safety Queensland (WHSQ) inspectors, prosecution action was commenced on 26 June 2017 (by complaint and summons) against MEC, who had a health and safety duty under section 21(2) of the *Work Health and Safety Act 2011* (WHS Act), for failing to comply, so far as reasonably practicable, with the duty contrary to section 32 of the said WHS Act.



- 1.11 On 18 September 2017, MEC notified the Enforceable Undertakings (EU) Unit of their intention to give a WHS undertaking (undertaking) for this matter.
- 1.12 On 29 August 2018, a final draft of the undertaking (initial) was received from MEC.
- 1.13 On 16 October 2018, an Evaluation Panel (the panel) consisting of a senior public servant and two external, independent persons evaluated the final draft undertaking and were willing to recommend acceptance of the undertaking subject to some minor amendments
- 1.14 On 18 October, the EU Unit provided MEC with evaluation feedback from the panel with the panel's suggested amendments noted.
- 1.15 On 25 October 2018, the EU Unit received a final signed version of the undertaking dated 20 October 2018 with confirmation that recommendations provided by the panel had been implemented.

## **2 Legislation and Policy**

- 2.1. It is alleged that MEC failed to comply with section 32 of the WHS Act.
- 2.2. An undertaking was given in accordance with section 216 of the WHS Act that provides, the 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 regulator by the Governor in Council under Schedule 2, Part 1 of the WHS Act.
- 2.4. OIR provided the relevant publications outlining information regarding the EU Program and the regulator's expectations for giving an undertaking.
- 2.5. The *Guidelines for the acceptance of an enforceable undertaking* dated August 2017 is a publication provided to assist duty holders in preparing an undertaking for consideration pursuant to section 230(3) of the WHS Act.
- 2.6. In determining whether to accept the undertaking as an EU, the regulator has considered the provisions of section 217 of the WHS Act that provides the regulator must give the person seeking to give an undertaking written notice of the regulator's decision to accept or reject the undertaking and of the reasons for the decision.

## **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. Prohibition Notice P10096559 dated 12 January 2016.
- 3.6. OIR Improvement Notice I1008007 dated 28 April 2016.
- 3.7. Complaint - General Purposes - Made, and Summons dated 26 June 2017.
- 3.8. OIR Investigation Report – dated 6 September 2016.
- 3.9. OIR's Regional Director Statement of compliance history dated 23 October 2017.
- 3.10. Statement by the OIR's Director, Legal and Prosecution Services dated 24 October 2017.

- 3.11. Workers Compensation Reports dated 17 October 2017 and 26 July 2018.
- 3.12. OIR's letter to the injured person dated 20 October 2017.
- 3.13. Financial Capacity Statement provided by MEC dated 11 July 2018.
- 3.14. University of Queensland letter of support dated 2 July 2018.
- 3.15. EU Unit Chronology – MEC dated 26 October 2018.
- 3.16. Evaluation Panel Assessment – Initial Evaluation dated 16 October 2018.
- 3.17. Evaluation Panel Feedback dated 18 October 2018.
- 3.18. Signed final version of MEC's WHS undertaking dated 20 October 2018 and received at OIR on 26 October 2018.

#### **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 MEC 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 MEC's proposed undertaking.
- 4.4 I find that the procedural history relating to the proposed undertaking is set out in section 1 above.
- 4.5 I accept the objective gravity of the matter has been assessed as a 'Medium' 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 MEC and the estimated total value of the undertaking.
- 4.7 I find the significance of the commitment in the undertaking is comparable to the capability of the person, taking into account the Financial Capacity Statement provided by MEC and the estimated total value of the undertaking.
- 4.8 I find that MEC have acknowledged the alleged contravention and shown regret in regards to the occurrence and the consequences of the alleged contravention.
- 4.9 I find that MEC, who had a health and safety duty under section 21(2) of the WHS Act failed to comply, so far as reasonably practicable, with that duty contrary to section 32 of the Act.
- 4.10 I acknowledge the assurance given by MEC 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.
- 4.11 I find the undertaking commits the person to a standard that is higher than the recognised compliance for the activity and/or to activities over and beyond recognised compliance levels.
- 4.12 I find the undertaking would constitute tangible benefits for workers / industry and the community as MEC are committing to:
  - 4.12.1 Engaging a WHS Manager to oversee improvement to the current MEC WHS systems and to implement the initiatives described within the undertaking.

- 4.12.2 Develop, maintain and undergo third party auditing of an Occupational Health and Safety Management System deemed acceptable by the regulator.
- 4.12.3 Completing the Injury Prevention and Management (IPaM) program with WHSQ and WorkCover Queensland.
- 4.12.4 Implementing a web-based safety management software system including staff training. MEC intend to retain this system beyond the life of the undertaking.
- 4.12.5 Implementing Safety Leadership training for the appointed Safety Committee made up of staff elected representatives from each division.
- 4.12.6 Enrolling a member of the MEC management team to complete Certificate IV in WHS.
- 4.12.7 Develop and deliver in depth training on safety procedures and safety generally.
- 4.12.8 Three employees to complete a Certificate III in Engineering and two employees to complete a Certificate IV in Engineering with an emphasis on safety in the workplace
- 4.12.9 Undertake the Participative Ergonomics for Manual Tasks (PERforM) program.
- 4.12.10 Implement a 360 degree feedback program to ensure clear open communications about safety in the workplace.
- 4.12.11 Purchasing and implementing a pallet lift system to address identified manual handling issues.
- 4.12.12 Installing a fume extraction system and enhanced dust vacuum system to remove fumes from the proximity of workers and inhalable dust particles from work areas.
- 4.12.13 Installing a gantry lift system to reduce back strain and employee risk.
- 4.12.14 Undertaking a professional ergonomics assessment of the office work area and implement recommendations.
- 4.12.14 Undertaking a third party audit of the MEC traffic management plan conducted and implement recommendations.
- 4.12.15 Sponsoring and running a Safety Health and Environment open day to promote safety at the Centenary Place Industry Park. Including guest speakers such as Queensland Government safety advocates, MEC will also present findings and outcomes from the Perform and IPaM programs.
- 4.12.16 Engaging a University of Queensland student undertaking a Bachelor of Occupational Health and Safety Science (honours) for industry placement as part of their final year requirements.
- 4.12.16 A donation to the Queensland Fire and Emergency Services, Rural Fire Service to purchase Personal Protective Equipment for use by volunteers.
- 4.13. I acknowledge that all Panel members have recommended acceptance of the undertaking as the preferred enforcement outcome in the circumstances of this case.

## **5 Decision**

- 5.1 Because the proposed undertaking meets the formal requirements of the WHS Act and policy requirements, my discretion whether to accept the undertaking under section 216 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 MEC is an appropriate enforcement option in regards to this case.
- 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 MEC 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.



Tony James  
**A/Deputy Director-General**  
**Office of Industrial Relations**

17 December 2018