

ENFORCEABLE UNDERTAKING

Part 11

Work Health and Safety Act 2011

The commitments in this enforceable undertaking
are offered to SafeWork NSW

by

AVOPILING Australia Pty Ltd

ACN: 163 544 583

Privacy statement

SafeWork NSW respects your privacy and is committed to protecting personal information. The information provided on this document is for the purpose of making an undertaking to SafeWork NSW given for the purposes of part 11 of the WHS Act. This information will be managed within the requirements of the current state government privacy regime.

SafeWork NSW may publish the undertaking and the information contained in it for purposes identified in the undertaking or for other appropriate legal purposes in various publications such as newspapers and on its website. SafeWork NSW may be required to disclose personal information to other regulatory agencies in accordance with other law enforcement activities which may be conducted as part of an investigation. Further information on our privacy policy is available at www.SafeWork.nsw.gov.au

Enforceable Undertaking

Purpose

The purpose of this enforceable undertaking is to document the undertakings offered to SafeWork NSW pursuant to Part 11 of the Work Health and Safety Act 2011 (**WHS Act**) in connection with matters relating to alleged contraventions of the WHS Act or the Work Health and Safety Regulations 2011 (**the Regulations**).

Section 1 – General information

a. Details of the person proposing the undertaking

Registered Address: C/- Economos Pty Ltd, Suite 38B,
Level 38, 2-16 Park Street, SYDNEY, NSW 2000

Postal address: [REDACTED]

Telephone contact: [REDACTED]

Email address: [REDACTED]

Legal structure: Proprietary Company

Type of business: Sub Contractor, Ground Engineering works

Commencement date:

Number of workers: Full-time: 137
Part-time: 1
Casual: 0

Products and/or services: Design and construct Ground Engineering applications

Comments:

b. Details of the alleged contravention

It is alleged by SafeWork NSW that on the 8th of Jan 2018, at the WestConnex Motorway St Peters Interchange, in the state of NSW, Avopiling Australia Pty Ltd (Avopiling) being a person conducting a business or undertaking who had duty under section 19(1) of the WHS Act 2011 to ensure, so far as is reasonably practicable, the health and safety of workers while the workers are at work in the business or undertaking, did fail to comply with that duty and the failure to comply with that duty exposed workers, to a risk of death or serious injury contrary to section 32 of the Act.

c. Details of the events surrounding the alleged contravention

Avopiling was engaged by a subcontractor to undertake construction of bridge foundation piling works at the St Peters Interchange worksite for the WestConnex New M5 project.

To enable delivery of tools and segmental liners as part of the subcontract works, Avopiling engaged a subcontractor.

On 08 January 2018, Avopiling workers were directed to undertake mobilisation of plant and equipment at the worksite. Being, the first day at work after year end festive holidays, the workers were advised to carry out the tasks for mobilising equipment, segmental casings and tools only.

The injured worker was the truck driver assigned by the subcontractor to provide services to Avopiling. During the unloading of one of the segmental casings, the injured worker was standing on top of the truck bed and whilst lifting the casing from the truck, was pinned in between two casings and injured, resulting in hospitalisation.

d. An acknowledgement that SafeWork NSW alleged a contravention has occurred

It is acknowledged that SafeWork NSW has alleged that Avopiling Australia Pty Ltd has contravened section 19(1) and Section 32 of the WHS Act. The alleged contraventions are taken very seriously by Avopiling and its subsidiaries nationally across Australia.

e. The details of any injury that arose from the alleged contravention



f. The details of any enforcement notices issued that relate to the alleged contravention

Were enforcement notices received?

Yes Please provide details in the table below.

| Date issued | Notice type | Notice number | Contravention | Action taken in response to notice |
|-------------|--------------------|---------------|---|------------------------------------|
| 02/02/18 | Improvement Notice | 7-321644 | Section 19, WHS Act 2011 SWMS Needs review and implement controls | Completed & Closed out on 16/02/18 |

g. A statement of assurance about future work health and safety behaviour

Avopiling is committed to complying with its obligations under the WHS Act and ensuring, so far as reasonably practicable the health and safety of all workers and those who may be affected by its business or undertakings.

The Owners, Directors, Senior managers, managers and officers within the Avopiling Group have been informed and consulted immediately after the incident. Every one of them committed to assist and work towards implementing a series of programs and several control measures to ensure a similar accident doesn't occur again. The commitment was extended to support the Enforceable Undertaking process and to ensure all learnings from this incident are used in consultation to educate our workers and industry partners to prevent re-occurrence.

When an alleged contravention is associated with an injury/illness

h. The details of the type of workers compensation provided (if the injured person(s) is a worker of the person)

The injured worker was offered full entitlements under the workers compensation policy of his employer, as he was not employed by Avopiling.

i. The details of the support provided, and proposed to be provided, to the injured person(s) to overcome the injury/illness

Does the alleged contravention involve injury to a person?

Yes The worker was employed by a subcontractor at the time of the incident.

The following support has been provided to the worker and/or their family:

| Date | Description of support | Comments |
|------|---|---|
| | Initial first aid on day of incident | Avopiling [REDACTED] staff initial response |
| | Avopiling senior management & project staff visited the injured worker in hospital | [REDACTED] |
| | Avopiling senior management & project staff attempted to contact the injured worker to assist in his recovery after the release of hospital | [REDACTED] |

j. The details of any existing work health and safety management system (WHSMS) at the workplace including the level of auditing currently undertaken

Avopiling possesses an existing WHSMS compliant with AS/NZS 4801:2001. Third party independent auditing of the workplaces against AS/NZS 4801:2001 has been conducted annually and was most recently undertaken on 17 to 21 August 2020. Third party auditing of the workplace against AS/NZS 4801:2001 is conducted on a yearly basis. In addition to the above, internal independent auditing has been regularly conducted as per nominated intervals in Avopiling's Integrated Management System Manual.

k. The details of any consultation undertaken within the workplace regarding the proposal of an enforceable undertaking

Consultation has been undertaken with Avopiling's Director, Senior Management, members of the work group including the site supervisor who was on site during the incident with an objective of achieving a successful outcome from the proposed Enforceable Undertaking (EU). Avopiling has also engaged in consultation with the following organisation/institutions.

- University of Wollongong (UoW)
- TAFE NSW
- Chartered Institute of Logistics and Transport
- Training/recruitment organisations and individuals who participate in indigenous community

l. A statement of regret that the incident occurred (i.e. not an admission of guilt)

Avopiling deeply regrets the incident on 8 January 2018 and that a worker was injured. Avopiling also feels sorry for the pain and suffering the injured worker endured and wish him well for a full and speedy recovery.

m. Any rectifications made as a result of the alleged contravention

The following rectifications and actions have been taken since the alleged contravention:

- The site specific and company procedures were reviewed and amended by operational crew in consultation with all involved
- All Avopiling HRCWS (high-risk construction work SWMS) were reviewed with operational crew and amended in consideration of the incident
- SafeWork NSW's suggestions and recommendations from the investigations were incorporated
- Avopiling companywide transport procedures have been updated and distributed to subcontract haulers
- A new Avopiling internal VOC (Verification of Competency) for loading/unloading Avopiling plant, equipment and tools including casings has been developed and implemented
- All site crews were strictly advised to use only the best practice of using pipe lifters when loading and unloading casings.
- Additional pipe lifters were purchased and made available readily for all sites
- Companywide toolbox talks were completed to raise awareness of our new processes and procedures
- Internal memoranda were issued to all employees clarifying roles and responsibilities
- Avopiling workers were consulted and advised to follow the approved procedures strictly
- Independent Chain of Responsibility (COR) audit was performed at our workshop and recommendations and suggested improvements were incorporated companywide and extended to all Avopiling's haulers appropriately.
- Additional training and refresher course by third party organisation provided to site operatives
- Developed more rigorous subcontractor/hauler assessment protocols
- Correspondences have been sent by the Avopiling Transport Manager to all transport subcontractor companies regarding the new Avopiling procedure and guidelines
- Transport Manager conducts regular audits on sub-contractor transport companies and drivers to ensure compliance with industry standards and Avopiling company procedures.
- Developed and implemented a new procedure - Working near to Piling or Foundation Works, Exclusion & Control Zone Procedure in collaboration with the Piling Federation and CPB contractors.

- Re-designed workshop entry, delivery, loading/unloading areas and implemented measures to ensure obligations by both Avopiling and haulage company drivers are met while adequate supervision is in place.

TOTAL AMOUNT SPENT ON RECTIFICATIONS **\$246,875**

n. A commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

Avopiling commits that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent reoccurrence of this type of incident. Avopiling commits that it will exercise its best endeavours to the ongoing effective management of work health and safety risks and related assurance programs.

o. A commitment to the ongoing effective management of work health and safety risks

Avopiling commits that it will exercise its best endeavours to the ongoing effective management of work health and safety risks

p. A statement of ability to comply with the terms of the enforceable undertaking

Avopiling acknowledges that it is committed and has the financial ability to comply with the terms of the enforceable undertaking upon successful acceptance of the EU by SafeWork NSW.

q. The person is required to provide information regarding any prior work health and safety convictions

SafeWork NSW requests a list outlining details of any prior work health and safety convictions or findings of guilt under work health and safety legislation or work health and safety related legislation.

No Avopiling has had no prior work health and safety convictions.

r. Statement regarding relationships with beneficiaries

Avopiling acknowledges that [REDACTED] National WHSE Manager is a sitting member of the University of Wollongong Industry Reference Group for the Master of OHS Program. The Industry Reference Group for the Master of OHS Program has been established to provide OHS Academic staff with expert advice to inform the ongoing development and implementation of the OHS academic programs in relation to:

- WHS legislation
- Evidence base underpinning WHS policies, procedures and practices
- Workforce issues
- Industry issues: regional, national, international
- Current and potential areas of research

s. Intellectual property licence

Avopiling will grant SafeWork NSW a permanent, irrevocable, royalty-free, worldwide, non-exclusive license to use, reproduce, distribute, electronically transmit, and electronically distribute, any materials developed if the proposed EU is successful and implemented. SafeWork NSW do not intend to adapt or modify any of the content in the Leadership Training Course or the Heavy Haulage Awareness Course developed as part of the EU, and acknowledge that the intellectual property licence for the two courses, be retained by TAFE.

t. A commitment to participate constructively in all compliance monitoring activities of the undertaking

Avopiling will acknowledge that the responsibility for demonstrating compliance with this undertaking rests with the person who gives the undertaking. Evidence to demonstrate compliance with the terms will be provided to SafeWork NSW by the due date for the term of the enforceable undertaking.

Avopiling will acknowledge that SafeWork NSW may undertake other compliance monitoring activities to verify the evidence that is provided and compliance with the relevant term. The evidence provided to demonstrate compliance with the undertaking will be retained by the person who gives the undertaking until advised by SafeWork NSW that the undertaking has been completely discharged.

Avopiling will acknowledge that SafeWork NSW may initiate additional compliance monitoring activities, such as inspections, as considered necessary at the expense of SafeWork NSW.

Avopiling acknowledges that should there be any delay in the commencement/delivery of the Enforceable Undertaking based on current community and workplace health and safety concerns and related business continuity disruption caused by COVID-19, this will be subject to mutual agreement (confirmed in writing) between Avopiling and SafeWork NSW.

u. Acknowledgement of enforceable undertakings guidelines

Avopiling has read and understood SafeWork NSW Enforceable Undertakings Guidelines and Enforceable Undertakings Customer Service Standard.

Section 2 – Enforceable Terms

a. An acknowledgement that the enforceable undertaking will be published and publicised

Avopiling acknowledges that the enforceable undertaking will be published on SafeWork NSW's internet site and may be referenced in SafeWork NSW's publications.

Avopiling will, within thirty (30) days of the date of acceptance of this enforceable undertaking, cause a public notice to be published in the Australian newspaper, which will be drafted using the script provided in Annexure 1.

Avopiling acknowledges that the public notice will be published in a mainstream daily newspaper, will be 1/8 of a page in size and the script will be approved by SafeWork NSW prior to the public notice being published. Failure to adhere to these conditions may result in SafeWork NSW requesting another public notice be published.

b. A commitment regarding linking the strategy and promotion of benefits to the enforceable undertaking

Avopiling is committed to ensuring that any promotion of a benefit arising from this enforceable undertaking will clearly link the benefit to the undertaking and that the undertaking was entered into as a result of the alleged contravention.

c. A commitment to disseminate information about the undertaking to workers, and other relevant parties (which may include work health and safety representatives), and in the annual report (if applicable).

Avopiling agrees to disseminate information about the enforceable undertaking within the workplace, including to the members of any health and safety committee, health and safety representatives and all subcontractors working for Avopiling. This information will be disseminated through toolbox meeting

at a morning pre-start and will be completed within 3 months from the date of acceptance of the enforceable undertaking.

Avopiling is not required to publish an annual report.

Avopiling commits that any strategies that involve safety information being provided to the industry and/or community will be subject to SafeWork NSW's review and approval of the content prior to dissemination.

Strategies that will deliver benefits to the workplace, industry and the community

d. Strategies that will deliver workplace benefits

1. Research Study by postgraduate students enrolled by the University of Wollongong (UoW) followed up with a customised Leadership Training Course by TAFE NSW for Avopiling's Employees.

This initiative links into areas 1 & 2 of the SafeWork NSW Work, Health and Safety Road map for NSW 2022 which aims to reduce work-related fatalities by 20%, serious injury by 30% and serious musculoskeletal injuries and illnesses by 30% through engaging and empowering workplaces to manage health and safety more effectively.

Scope:

A comprehensive literature review on existing publications. Highlight and/or compare similarities or behavioural patterns between past case histories and the specific subject incident. In addition to this the following will be undertaken;

- A retrospective research study into the safety culture and safety behaviour at the time of the incident in January 2018.
- A review of the High-Risk Construction Safe Work Method Statements (SWMS) used and the practical application of these documents in high-risk work towards driving effective safety outcomes.

The research has four main goals:

- To identify any organisational and or individual/behavioural human factors that affect supervisor safety leadership behaviours in the high-risk construction work environment
- To assess and compare the relative contributions of these factors in shaping safety leadership behaviours and their outcomes
- To identify if the high-risk construction safe work method statements used within the industry are effectively communicating the required high-risk messages and ensuring that workers understand the application of risk mitigation to managing hazards within the high-risk work environment, as the SWMS had not been followed on the day of the incident
- To identify corrective actions to then develop company specific recommendations to implement a realistic improvement process with a monitored period post implementation, to ensure corrective actions, safety behaviours and safety performance identified have improved

The objectives of the qualitative & quantitative research study are to retrospectively review the company safety culture from 2017 and analyse safety culture and behaviour practices and propose findings with recommendations for improvements. At the end of the study, a comprehensive report will be prepared and distributed to Avopiling for implementation of suggested recommendations.

TAFE NSW to prepare a customised leadership course using the results of the UoW research addressing the findings from the research study.

Engage front line managers to train adequately and appropriately via the customised course organised and implemented by TAFE NSW.

Note: Letters of support from UoW and TAFE NSW along with a training proposal have been provided to SafeWork NSW.

Target issue:

- Organisational and/or individual behavioural factors that affect safety leadership in the high-risk construction work environment
- High-risk construction SWMS used within the business and their effectiveness in communicating the required control measures/ risk mitigation to manage the hazards. Note: The SWMS had not been followed on the day of the incident
- Provide adequate and appropriate customized training
- Suggestions/recommendations for further research towards filling any gaps in the available literatures

Tangible outputs / deliverables:

- Research Study and comprehensive report into safety culture and safety behaviour.
- Avopiling to review existing high-risk SWMS to incorporate findings and recommendations from the research report
- Engage Graduate WHS Student/s (possibly a student from a low socio-economic background and qualified to UoW requirements) for an initial period of 24 months in an ongoing agreement for the period of the research.
- Deliver the results of the research study to TAFE NSW to then develop a customised Leadership course taking into consideration the outcomes of the UoW research outcomes and recommendations.
- Complete training for up to 40 employees all front line managers, including supervisors and senior management of Avopiling.
- Evaluate the effectiveness of the course via a survey, using the same specific questions asked before, during, immediately after and post training 3 months later developed by Avopiling.
- Develop an academic paper based on the results of the research including the measurable data obtained during the WHS Awareness & Safety Leadership course to detail the measurable outcomes of both strategies.
- Deliver the results of the research study to a body of safety professionals and industry leaders at an Avopiling sponsored event in Sydney. This event will include major industry players including SafeWork NSW, public organisations ([REDACTED]) tier 1 & 2 civil contractors and builders and major suppliers for major construction projects. Estimated number of participants would be approximately 100.
- Course to be placed on the national Chartered Institute of Logistics and Transport (CILTA) professional development directory for utilisation by industry

Audience / beneficiaries:

- The study will focus on safe work practices of employees of Avopiling which include senior management, front line managers, supervisors and ground workforce

- UoW - Graduate student/s will be sponsored and supported by Avopiling
- TAFE NSW – Will assist in developing a customised course to suit findings from the research outcome
- Wider industry partners – Sharing the outcome from research and passing the knowledge of lessons learned.

Delivery method:

The project will be supported by the following academics & Avopiling staff:

██████████ Academic Program Director
██████████ Lecturer
██████████ Lecturer and Associate Director of COPERSH
██████████ Lecturer
██████████ Associate lecturer
Avopiling administrative committee comprising of ██████████ (Group General Manager),
██████████ (State Manager, NSW) and ██████████ (National WHSE Manager)

Milestone A1 – Establishment of an administrative committee who's focus will be to develop and deliver on this strategy – Within 2 weeks from acceptance of EU by SafeWork NSW

Milestone A2 – Engage UoW with suitable postgraduate student/s - Within 3 months from acceptance of EU by SafeWork NSW

Milestone A3 – High-risk construction SWMS review - Within 9 months from acceptance of EU by SafeWork NSW

- Literature Review on available evidence & case studies related to the use of SWMS in high-risk construction and establish relationships to the incident where possible
- Consider opportunities to remove "clutter from current processes and procedures to enable clearer focus on practices that lead to improved safety and work outcomes Consider development of modular approach to creation of SMWS. Consider improved efficiency of SWMS risk management process to enhance useability. Ensure revised SWMS meet regulatory requirements and practicality for everyday use in the high-risk work environment

Milestone A4 – Safety Culture behaviour review - Within 22 months from acceptance of EU by SafeWork NSW

- Retrospectively review company safety culture from 2017 and develop measurable and qualifiable questions for focus groups, individual assessments and observations with the UoW
- Consider the effectiveness of the changes that have been made in the safety culture post incident interventions. This may be carried out at more than one site to assess differences in culture across the business
- Include consideration of effectiveness of the interventions in the high-risk work environment
- Provide recommendations as to future intervention strategies to address any deficiencies identified
- May involve university student/s working on site for a period of time to understand the processes and cultures that currently exist
- Consider current risk/hazard management, safety theories and practices & their application to the high-risk work environment

Milestone A5 – Prepare a research report and an academic paper by the post graduate student/s based on the review study on A3 above - Within 12 Months from acceptance of EU by SafeWork NSW

Milestone A6 – Review and finalise the research report on A4 above, for review and acceptance by UoW and Avopiling – Within 24 months from acceptance of EU by SafeWork NSW

Milestone A7 – Deliver the results of the research study to TAFE NSW to then develop a customised Leadership course taking into consideration the outcomes of the UoW research outcomes and recommendations; Measure safety culture and leadership practice before the course with specific questions developed with UoW – Within 21 Months from acceptance of EU by SafeWork NSW

Milestone A8 – Complete training for all front line managers including supervisors and senior management of Avopiling; Avopiling to measure progress of course with the same specific questions asked before, then during, immediately after and post training 3 months later. – Within 27 Months from acceptance of EU by SafeWork NSW

Milestone A9 – Presentation of the academic paper to the industry partners via a breakfast seminar or similar - Within 24 months from acceptance of EU by SafeWork NSW. Course to be placed on the national CILTA professional development directory for utilisation by industry.

Timeframes:

It is intended to commence this research project in line with the University academic calendar commencing in July 2021. Individual timeframes for each milestone (A1 to A9) has been noted above. Target Completion date is 27 months from acceptance of EU by SafeWork NSW.

Work health and safety outcome:

- Improved outcome for understanding of appropriate safety leadership in high-risk workplace activities; The customised training will enhance supervisors and managers across the organisation to effectively identify key strategies, understand behaviour practices, manage identified risks and actively participate in driving effective safety leadership.
- Understanding and possible need for improvement of organisational culture and behaviour of the workforce
- Simplified SWMS for high-risk activities to enable easier understanding and implementation
- Shared knowledge - Causes for incident and improvements implemented by the business to the industry partners and academics to avoid recurrence of similar incidents in the workplace

Cost Breakdown:

| Description | \$ Amount |
|---|-----------|
| Internal staffing and admin. costs associated with developing and delivering the strategy | |
| Engage UoW with a suitable postgraduate student; initial meeting, set up selection criteria, application process; interviews, formal appointment | |
| Safety culture behaviours review | |
| Review High-Risk Construction SWMS | |
| Prepare research report and an academic paper by the student | |
| Review and finalise research report for review and acceptance by UoW, AP Australia | |
| Develop a customised leadership course in consultation with TAFE NSW | |
| Complete Training for all front line Managers including Supervisors and Senior Management Team (40 employees) over a 2-day course totalling 16 hours. | |
| Presentation of the academic paper to the industry partners - breakfast forum or similar | |

Total estimated cost: \$373,450

Total estimated cost of workplace benefits \$373,450

e. Strategies that will deliver industry benefits

- 2. Develop a customised course to address the unloading incident, while allowing for general industry loading and unloading hazards, to enhance awareness and knowledge to the construction industry with heavy haulage and chain of responsibility obligations, in collaboration with industry leading partner - Chartered Institute of Logistics & Transport.**

This initiative links into areas 1 & 2 of the SafeWork NSW Work, Health and Safety Road map for NSW 2022 which aims to reduce work-related fatalities by 20%, serious injury by 30% and serious musculoskeletal injuries and illnesses by 30% through engaging and empowering workplaces to manage health and safety more effectively.

Scope:

The strategy aims to increase awareness and knowledge, to construction industry participants, with respect to heavy haulage and chain of responsibility obligations specifically for dangers and potential injuries when delivering plant, equipment and goods to construction sites and when in the line of fire during critical truck, traffic and crane movements.

Many varied courses are currently available within the marketplace which cover loading and unloading of plant & equipment, chain or responsibility and how to secure goods/cargos for transport. Avopiling believes and notes that a course which is off the shelf and nonspecific to the high-risk construction environment would not have the required impact on workers of construction sites as one which focuses on environments which Avopiling workers and subcontractors work within including the specific contributing factors of this incident.

Target issue:

The transport industry in Australia has a high rate of injury and fatalities resulting from workers falling off trucks, trailers and in traffic incidents while at work. This includes during transit to load or offload destinations along with during the loading and unloading phase. These risks should be identified and controlled by businesses operating in the road transport industry and their supply chains (Avopiling). Given the high-risk nature of the construction environment with thousands of truck movements a year, these incident trends will be targeted by discussing this in the heavy haulage awareness course for drivers and other participants in the construction industry.

Avopiling also would like to have an effective and ongoing impact in the prevention of non-traffic occupational incidents in the workplace and has given careful consideration to the type of course we would like to present having considered what is currently in the public domain. To do this, Avopiling believes that the proposed course developed with TAFE NSW will achieve this goal having direct impact to our industry, improving safety outcomes.

Tangible outputs / deliverables:

- Customised course developed by TAFE NSW that will be delivered over two interactive days either face to face or considering the recent COVID-19 travel restrictions by video conference to our QLD and WA employees. The number of sessions will depend on the planning of scheduled works around the time of delivery, However Avopiling will endeavour for the course to be delivered in groups to maximise interaction, team bonding while also ensuring all employees receive the same message from the same educators at the same time, so everyone benefits from the learning experience.

The Training will include two main components;

Part 1:

Successfully promote safe work practices including chain of responsibility awareness amongst construction workers, truck drivers in the trucking and transport industry including flat top-heavy plant and machinery, materials and concrete agitator drivers categories.

Part 2:

Successfully promote and reinforce safe management practices, situational awareness and hazard recognition when loading and unloading heavy plant, machinery and materials in the construction environment.

- Provide the completed content to the CILTA for review and endorsement of the course to the Industry. This will involve CILTA mapping to national competencies in line with industry best practice and once endorsed by the CILTA it will be placed on the National CILTA professional development directory.
- Completion of the course by relevant Avopiling staff (approx. 5).
- Avopiling will also encourage, with incentives, the haulage companies to engage their truck drivers (up to 10, dependant on current contracts and contractor engagement) to undertake the subject course as a precondition to deliver materials to Avopiling sites.
- In partnership with the CILTA, implement media campaign via digital media, to advertise the course to industry through their network including: Webpage, Facebook, WhatsApp, YouTube and the Institute's global online webpage feed, encouraging the industry to undertake the course.
- Conduct a survey of participants to measure if course learning outcomes were achieved.

Audience / beneficiaries:

The target audience of the strategy is construction industry workers (including Avopiling workforce) and haulage industry participants

Delivery method:

The project will be supported by the following organisation and personnel:

- TAFE NSW
- Chartered Institute of Logistics and Transport Australia (CILTA). The association CILTA covers all those who work transporting passengers, moving freight and managing Australian domestic and international supply chains from the most junior school leaver to the most senior CEOs.
- Avopiling administrative committee comprising of [REDACTED] (Group General Manager), [REDACTED] (State Manager, NSW) and [REDACTED] (National WHSE Manager)

Milestone B1 – Establishment of an administrative committee, who's focus will be to develop and deliver on this strategy – Within 2 weeks from acceptance of EU by SafeWork NSW

Milestone B2 – Engage TAFE NSW and CILTA to develop a customised course to address the unloading incident, while allowing for general industry loading and unloading hazards, to improve awareness within the transport industry. Engage with SafeWork NSW to ensure the course outcomes are relevant to the incident - Within 6 months from acceptance of EU by SafeWork NSW

Milestone B3 – Provide the completed content to the CILTA for review and endorsement of the course to the industry - Within 12 months from acceptance of EU by SafeWork NSW

This initiative will involve supplying the completed course materials to the CILTA for mapping to national competencies in line with industry best practice. Once the course is granted endorsement by the CILTA it will be placed on the National CILTA professional development directory.

Milestone B4 - Completion of the course by Avopiling staff (approx. 5). Avopiling will also encourage, with incentives, the haulage companies to engage their truck drivers (up to 10) to undertake the subject course as a precondition to deliver materials to Avopiling sites. This will occur within 18 months of acceptance of the EU by SafeWork NSW.

Milestone B5 – Evaluation of the course - conduct a survey of participants at the completion of the course, to measure if course learning outcomes have been achieved and retained.

Milestone B6 – Develop media campaign/advertisement in partnership with CILTA outlining specific deliverables and timeframes - Within 18 months from acceptance of EU by SafeWork NSW.

Milestone B7 - Implement media campaign/advertisement in partnership with CILTA, advertise the course to industry via digital media for example, via Webpage, Facebook, WhatsApp, YouTube and the Institute's global online webpage feed, encouraging take up of the course - Within 18 months from acceptance of EU by SafeWork NSW.

Timeframes:

Development of this initiative will commence within 2 weeks of acceptance of the enforceable undertaking and estimated completion ready for release to industry within 18 months of enforceable undertaking.

Work health and safety outcome:

A customised course available to industry participants specially targeting to promote Safe work practices, situational awareness and hazard recognition when loading and unloading of trucks in construction sites to reduce potential injury and illness.

Cost Breakdown:

| Description | \$ Amount |
|--|-----------|
| Internal staffing and admin. costs associated with developing and delivering the strategy | |
| Engage TAFE NSW to develop a customised course with suitable course materials, including consultation with the industry | |
| Endorsement of the course to the industry by CILTA | |
| Implement media campaign/advertisement in partnership with CILTA; completion of the course by Avopiling staff, and also encourage/Incentivise additional participation to the course by truck drivers of haulage companies used by Avopiling | |

Total estimated cost: \$138,570

Total estimated cost of Industry benefits \$138,570

f. Strategies that will deliver community benefits

3. Develop an animation on the risks associated with the loading and unloading of plant, equipment and materials.

Scope:

The strategy aims to increase awareness to participants of the dangers and potential injuries during the loading and unloading of plant/equipment and materials when on top of trucks or similar. The animation will contain information that links to the subject incident, but will also provide general messaging relevant to all industries involved in the transport supply chain.

Target issue:

The community suffers a high rate of injuries and fatalities resulting from loading and unloading trucks and trailers. These risks should be identified and controlled by all participants operating in the transport supply chain. Given the high-risk nature of the activities with hundreds and thousands of transport movements.

Tangible outputs / deliverables:

- Engage a suitable third party provider to discuss concept, script and creation of the animation.
- Initial draft for review by Avopiling and SafeWork NSW
- Consultation with all parties, including development and finalisation of the animation with voiceover embedded and approval by SafeWork NSW
- Deliver completed animation to CILTA and other industry partners for distribution to the wider community and industries with appropriate digital media to place them in organisations' web sites and in social media.

This proposed video animation will provide a visual educational tool to all participants in the community who participate and involve in loading and unloading of materials, machineries, equipment etc. to all industries.

Audience / beneficiaries:

The target audience of the strategy are all participants in the community who participate and are involved in loading and unloading of materials, machinery, equipment etc to all industries.

Delivery method:

The project will be supported by the following organisation and personnel:

- A suitable third party provider with expertise in providing professional animation services, as per the above scope.
- Avopiling administrative Committee comprising of [REDACTED] (Group General Manager), [REDACTED] (State Manager, NSW) and [REDACTED] (National WHSE Manager)
- SafeWork NSW – The animation would be SafeWork NSW branded
- Avopiling will project manage the animation in consultation with SafeWork NSW. Avopiling will also liaise with the provider for scripting the appropriate inclusions to meet the community/industry expectations. All relevant outcomes from Strategy 2 will also be incorporated in the animation to ensure it captures serious risks associated with loading and unloading processes.

Milestone C1 – Establishment of an administrative committee, who's focus will be to develop and deliver on this strategy– Within 2 weeks from acceptance of EU by SafeWork NSW

Milestone C2 - Engage a suitable third party provider to discuss concept, script and creation within 3 months from acceptance of EU by SafeWork NSW

Milestone C3 - Initial draft for review by Avopiling and SafeWork NSW within 6 months from acceptance of EU by SafeWork NSW

Milestone C4 - Consultation with all parties, including development and finalisation of the animation with voiceover embedded and approval by SafeWork NSW, within 12 months from acceptance of the EU

Milestone C5 - Deliver completed animation to CILTA and other industry partners for distribution to the wider community and industries with appropriate digital media to place them in organisations' web sites and in social media within 18 months from acceptance of EU by SafeWork NSW.

Work health and safety outcome:

This strategy is designed to provide stimulating and lasting impression on the transport supply chain. Specifically targeting the promotion of safe work practices when loading and unloading of trucks in construction industry and other industries to reduce injury and illness in line with the SafeWork NSW Work Health and Safety Road Map for NSW 2022.

Timeframes:

Development of this initiative will commence within 2 weeks of acceptance of the enforceable undertaking and estimated completion is within 18 months of enforceable undertaking.

Cost Breakdown:

| Description | \$ Amount |
|---|-----------|
| Internal staffing and admin. costs associated with delivering the strategy | |
| Engage a suitable third party provider to discuss concept script and creation | |
| Delivery to various communities and industries | |

Total estimated cost: \$74,210

Total estimated cost of Community benefits \$74,210

TOTAL ESTIMATED VALUE OF THE UNDERTAKING \$586,230

Where appropriate (g-j)

g. A commitment to establish and maintain (or maintain if a system already exists) a WHSMS

Avopiling is committed to ensuring their existing WHSMS complies with the principles of AS/NZS 4804: 2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques and ensuring compliance within 6 months from the date the enforceable undertaking is accepted.

Avopiling acknowledges that the WHSMS will be maintained in accordance with the standard.

h. A commitment to ensure the WHSMS is audited by third party auditors

Avopiling commits to ensuring the WHSMS will be audited by accredited third party auditors to meet the requirements of AS/NZS 4801: 2001 Occupational Health and Safety Management Systems – Specification with guidance for use, in accordance with established timeframes as set by SafeWork NSW.

Avopiling acknowledges that the third-party auditors selected to perform WHSMS audits must be certified by a certification body accredited by JAS-ANZ to ISO/IEC 17024: 2004 General requirements for bodies operating certification of persons.

Avopiling acknowledges that details of the auditors' qualifications against the stated requirements will be provided with audit reports submitted to SafeWork NSW.

Avopiling acknowledges that an initial third party audit will be undertaken within the period of June to August 2021 within 5 months of acceptance of the enforceable undertaking and two further third party audits will be undertaken during the course of the undertaking, during the periods of June to August 2022 & 2023 respectively .

i. A commitment to provide a copy of each finalised WHSMS audit report to SafeWork NSW

Avopiling acknowledges that audit reports received from the auditor will be sent to SafeWork NSW, within 30 days of the audit along with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.

Avopiling acknowledges that within 90 days of receipt of the auditor's written report, SafeWork NSW will be advised of the intended action in addressing each of the report's recommendations.

j. A commitment to implement the recommendations from these audits (unless otherwise negotiated with SafeWork NSW)

Avopiling commits to fully implementing the intended actions arising from the audit within 6 months from receiving the audit report from the WHSMS auditor unless otherwise agreed by SafeWork NSW.

Section 3 – Offer of undertaking

As a duly authorised person of Avopiling Australia Pty Ltd, I offer this undertaking and commit to the terms herein

Signed

[Duly authorised person]

Name:

Position: Group General Manager

Dated at Chatswood this 21st day

of April, 2021

Section 4 – SafeWork NSW's acceptance of undertaking

The duration of an enforceable undertaking is determined by the content of the agreed terms. An enforceable undertaking commences and is enforceable once accepted by SafeWork NSW. The enforceable undertaking will be concluded on written advice from SafeWork NSW when all requirements of the undertaking have been satisfactorily executed.

I accept this undertaking as an enforceable undertaking under section 216 of the WHS Act.

Signed:

Name: Valerie Griswold

Position: Executive Director, Investigations and Enforcement.

Authorised delegate for SafeWork NSW, an agency within the Department of Customer Service.

Dated at Sydney this 22 day of April 2021
[suburb] [month] [year]

Annexure 1 – Public Notice of SafeWork NSW’s acceptance of undertaking

Notice of Acceptance of an Enforceable Undertaking under Part 11 of the Work Health and Safety Act 2011.

Avopiling Australia Pty Ltd (Avopiling) was engaged by a subcontractor to undertake construction of bridge foundation piling works at the St Peters Interchange worksite for the WestConnex New M5 project.

On 08 January 2018, Avopiling workers were directed to undertake mobilisation of plant and equipment at the worksite, to enable delivery of tools and segmental liners as part of the subcontract works. Avopiling engaged another subcontractor to provide services to Avopiling. During the unloading of one of the segmental casings, one of the sub-contractor’s workers was pinned in between two casings during the lifting of a casing from the truck, sustaining crush injuries.

SafeWork NSW investigated the incident and subsequently alleged that Avopiling Australia Pty Ltd contravened Section 19(1) and Section 32 of the Work Health and Safety Act 2011.

This notice has been placed under the terms of an enforceable undertaking and acknowledges acceptance of an undertaking, that is enforceable under the Act, from Avopiling, 163 554 583 as finalisation of the abovementioned alleged contravention.

The undertaking requires the following actions:

- Conduct a research study into safety culture and a review of high-risk construction SWMS, followed up with a customised Leadership Training Course by TAFE NSW for Avopiling’s employees.
- Develop a customised course to enhance awareness and knowledge to the construction industry with heavy haulage and chain of responsibility obligations, in collaboration with TAFE NSW and the Chartered Institute of Logistics and Transport.
- Develop an animation on the risks associated with the loading and unloading of plant, equipment and materials.

The full undertaking and general information about enforceable undertakings is available at www.SafeWork.nsw.gov.au.