

17 May 2023

ENFORCEABLE UNDERTAKING

Part 11

Work Health and Safety Act 2011

The commitments in this enforceable undertaking
are given by

The Civil Experts Pty Ltd

ACN: 612 801 340

to SafeWork NSW and accepted by SafeWork NSW

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 safework.nsw.gov.au.

Purpose

The purpose of this enforceable undertaking is to document the undertakings given to SafeWork NSW and accepted by 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**). The Agreed Terms of the Enforceable Undertaking are set out below.

Section 1 – General information

a. Details of the person giving the undertaking

Registered Address:	Level 2, Suite 2.01, Building G 350-374 Parramatta Road Homebush NSW 2140
Postal address:	Level 2, Suite 2.01, Building G 350-374 Parramatta Road, Homebush NSW 2140
Telephone contact:	02 8330 8800
Email address:	[REDACTED]
Legal structure:	Australian Proprietary Company (Limited by Shares)
Type of business:	Civil Engineering
Commencement date of the entity:	3 June 2016
Number of workers:	Full-time: 43 workers Part-time: 2 workers Casual: 2 workers
Products and/or services:	The Civil Experts Pty Ltd provides civil and industrial construction services to major residential and industrial infrastructure projects throughout NSW.

b. Commencement

This Undertaking comes into effect when:

- i. the Undertaking is executed by The Civil Experts Pty Ltd; (hereinafter also referred to as "TCE")
- ii. SafeWork NSW accepts the executed Undertaking (**Commencement Date**).

c. Duration

- i. Section 5 identifies timeframes for the completion of each strategy identified in this enforceable undertaking;
- ii. the enforceable undertaking will be concluded on written advice from SafeWork NSW to TCE when all requirements of the undertaking have been satisfactorily executed.

Section 2 – The alleged contravention

a. Details of the alleged contravention

It is alleged by SafeWork NSW that on 12 May 2020, TCE failed to discharge its obligations as a person conducting a business or undertaking under section 19(1) of the WHS Act in that it did not ensure so far as reasonably practicable the health and safety of workers and/or others.

b. Details of the events surrounding the alleged contravention

An incident occurred on 12 May 2020 in which a labour hire worker was injured at a construction site in Bowral (Site). The injured worker was at work at the Site undertaking traffic controller duties around the vicinity of 6 interconnected ArmorZone barriers when a passing truck clipped the first of the barriers causing the barriers to move and strike the injured worker.

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

As a result of being struck, the injured worker [REDACTED]

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

It is acknowledged by TCE that SafeWork NSW has alleged that TCE has contravened sections 19(1) of the WHS Act.

e. A statement of regret that the incident occurred

TCE regrets that the incident on 12 May 2020 occurred and the worker sustained injuries as a result of the incident.

Note: the above is not an admission of guilt

f. Prior work health and safety convictions

TCE has had no prior work health and safety convictions in NSW or other work health safety jurisdictions.

When an alleged contravention is associated with an injury/illness

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

TCE was not required to provide workers compensation as the injured worker was employed by a subcontractor who provided workers compensation.

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

The worker was not employed by TCE at the time of the incident.

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

Date	Brief description of support provided
From the date of the incident (12/05/2020) up until approximately a year after the incident	<p>TCE was able to obtain regular updates on the injured worker’s medical condition, firstly through his employer and then from a personal friend of the injured worker.</p> <p>As time drew on TCE was unable to obtain information on injured worker. [REDACTED]</p>

Section 3 – Enforcement Notices and Rectifications

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

Date issued	Notice type	Notice number	Contravention	Action taken in response to notice
12/05/2020	Prohibition Notice	Ref No: 7-375261 (Notice No: 40425)	Section 19 of the WHS Act	<p>Engaged a suitably qualified person to review the Traffic Control Plan in place at the time of the Incident to ensure it was in compliance with AS 1742:2020 – Manual of Uniform Traffic Control Devices and the RTA Traffic Control at Worksites Manual.</p> <p>Implemented the reviewed Traffic Control Plan and monitoring the effectiveness of these measures</p>

b. Any rectifications or changes made to work health and safety systems and/or practices as a result of the alleged contravention

Description	\$ Amount
Speed hump and reflectors installation	\$25,000.00
Radar speed boards	\$15,000.00
Review of TCP	\$10,000.00

TOTAL AMOUNT SPENT ON RECTIFICATIONS

\$50,000.00

Section 4 – Statements, commitments, and acknowledgements

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

TCE commits that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence of this type of incident.

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

TCE 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.

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

TCE commits that it will, so far as reasonably practicable, maintain ongoing effective management of work health and safety risks.

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

TCE acknowledges that the enforceable undertaking will be published on SafeWork NSW's internet site until the completion of the enforceable terms and may be referenced in SafeWork NSW's publications.

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

TCE acknowledges that it has the financial ability to comply with the terms of this enforceable undertaking and has provided evidence with this undertaking to support this declaration.

f. An acknowledgement consultation has occurred within the workplace regarding the proposal of an enforceable undertaking

TCE acknowledges that it has consulted within the workplace in relation to the development of the enforceable undertaking proposal. TCE managers and supervisors have been consulted during monthly management meetings. During those meetings, EU strategies were outlined and suggestions and feedback were obtained. Additionally, discussions of the EU will take place with the broader workforce as appropriate.

g. Statement regarding relationships with other parties

TCE advises that there is an existing relationship held with the Civil Contractors Federation identified at Strategy 8 in Section 5 of this enforceable undertaking. TCE has been a member of the Civil Contractors Federation (CCF) for 7 years and will be working in collaboration with CCF to promote the Industry Forum as part of its EU Strategies. Member(s) of CCF will be in attendance at the Industry Forum.

h. Intellectual property licence

TCE grants SafeWork NSW a permanent, irrevocable, royalty-free, worldwide, non-exclusive license to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking.

TCE will procure from Deakin University a permanent, irrevocable, royalty-free, non-exclusive license for SafeWork NSW to use the intellectual property created developed or discovered in the conduct of the research study contemplated under strategy 5 in the ordinary course of its business, but with no right to further sublicense, sell or commercialize the intellectual property.

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

TCE acknowledges that the responsibility for demonstrating compliance with this undertaking rests with TCE. Evidence to demonstrate compliance with the terms will be provided to SafeWork NSW by the due date for each Strategy item identified in Section 5.

TCE acknowledges that SafeWork NSW may undertake other compliance monitoring activities to verify the evidence that is provided for each Strategy item identified in Section 5. The evidence provided to demonstrate compliance with the undertaking will be retained by TCE until advised by SafeWork NSW that the undertaking has been completely discharged.

TCE acknowledges that SafeWork NSW may initiate additional compliance monitoring activities, such as inspections, as considered necessary.

TCE acknowledges that should there be any delay in the delivery or compliance of the Enforceable Undertaking this will be subject to mutual agreement (confirmed in writing) between TCE and SafeWork NSW.

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

TCE is committed to ensuring that any real or perceived promotion of a benefit arising from this enforceable undertaking will clearly link the benefit to the enforceable undertaking and that the enforceable undertaking was entered into as a result of the alleged contravention identified in section 2 above.

Where products or other deliverables are externally promoted or have a direct link to the enforceable undertaking TCE will include the following statement:

This (insert product or service) has been (produced, held) pursuant to an enforceable undertaking between The Civil Experts Pty Ltd, ACN: 612 801 340 and SafeWork NSW entered into on (insert DATE EU commenced).

Any variation to the above statement requires prior written agreement between TCE and SafeWork NSW.

k. A commitment to gain review and approval for industry and/or community safety information

TCE commits that any strategies to be implemented by TCE in compliance with this Enforceable Undertaking 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.

l. Inconsistent Statements

TCE commits that it will not make any statement or otherwise imply anything that is inconsistent with the statements, commitments or acknowledgements contained in this Undertaking and will take steps to ensure its representatives, employees and officers do not make any such statements.

m. Reliance on Commitments

TCE acknowledges that SafeWork NSW may rely upon the commitments and statements set out in Section 4 (a), (b) and (c) above when making decisions regarding enforcement action if TCE fails to comply with its work health and safety obligations in the future, including but not limited to any failure to comply with its obligations under this Undertaking.

n. Withdrawal or variation

TCE may with the written agreement of SafeWork NSW withdraw or vary the undertaking in accordance with section 221 of the Work Health and Safety Act 2011.

o. Acknowledgement of Enforceable Undertakings Guidelines and Contravention of the Undertaking

TCE has read and understood SafeWork NSW Enforceable Undertakings Guidelines.

TCE acknowledges that if TCE contravenes any of the terms of this Enforceable Undertaking, SafeWork NSW may apply to the District Court for an order in accordance with section 220 of the Work Health and Safety Act 2011.

Section 5 – Strategies

The Civil Experts Pty Ltd undertakes to deliver the following Strategies.

Each strategy in the enforceable undertaking aims to provide lasting work health and safety benefits across the workplace, the industry, and the community, or a combination of these.

Strategies that relate to the dissemination of information in relation to the enforceable undertaking

Strategy 1 – Enforceable undertaking public notice

Summary:

TCE will place a public notice advising of the enforceable undertaking with SafeWork NSW.

WHS outcome and beneficiaries:

The public notice serves to advise the general public about the enforceable undertaking and serves as a form of both education and deterrence for industry.

Strategy delivery and verification:

The strategy will be delivered and verified by SafeWork NSW in accordance with the table below.

How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
<p>TCE will cause a public notice to be published in the Sydney Morning Herald using the script provided in Annexure 1.</p> <p>The notice in the Sydney Morning Herald will be 1/8 of a page in size.</p> <p>The script for the notices must 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.</p>	<p>Within 30 days of the Commencement Date of the enforceable undertaking but not prior to SafeWork NSW publishing a copy of the enforceable undertaking on its website.</p>	<p>TCE Infrastructure Manager and Director</p> <p>TCE General Manager and Director</p> <p>TCE Operations Manager</p>	<p>Within 7 days of placing the published notice TCE will provide SafeWork NSW with the following evidence of placement.</p> <p>A copy of the full page of the Sydney Morning Herald showing the public notice and the name and date of the publication.</p>

Strategy 2 – Dissemination of information about the enforceable undertaking

Summary:

TCE agrees to disseminate information about the enforceable undertaking with SafeWork NSW within its workplace including to its workers, the members of any health and safety committee, health and safety representatives and all subcontractors working for TCE and to any other relevant parties.

WHS outcome and beneficiaries:

The dissemination of information about the enforceable undertaking is an important step in maintaining effective dialogue with the workforce about the enforceable undertaking and safety more broadly.

Strategy delivery and verification:

The strategy will be delivered and verified by SafeWork NSW in accordance with the table below.

How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
<p>A full staff toolbox talk will occur at which the CEO of TCE will provide all staff with an overview of the enforceable undertaking.</p> <p>A record of the meeting will be taken and distributed to all employees by way of emails and information boards.</p>	<p>Within 30 days of the Commencement Date of the enforceable undertaking</p>	<p>TCE Infrastructure Manager and Director</p> <p>TCE General Manager and Director</p> <p>TCE Operations Manager</p>	<p>Copy of toolbox talk and minutes; Attendance register; and a copy of the email and notice displayed on information boards</p>

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

Strategy No. 3 – Review and Update of IMS & Appointment of Dedicated IMS Manager

Summary:

TCE will review its Integrated Management System (IMS) and amend it as necessary with a view to streamlining the IMS to make it more user friendly, efficient and effective. This review and update will ensure that the IMS is accurate, relevant, and up to date and that the IMS is migrated to a paperless system.

The IMS will inform TCE's approach to WHS management and will be a useful tool for ensuring that it meets its health and safety objectives and improves its overall safety culture.

Migrating the IMS to a paperless system will mean that:

- the system is easier to maintain and implement system improvements across the company;
- records can be made and kept in real time to improve record keeping;
- records can be checked in real time to ensure compliance with IMS requirements;
- it will provide more opportunity for workers to provide feedback on systems in place and facilitate more consultation;
- documents such as induction forms and other checklists can be filled in onsite using handheld devices; and
- there will be up to date documents available to all personnel to ensure that works are undertaken as per safety requirements.

The IMS is intended to be a dynamic system which will be updated as TCE's WHS management matures and will also reflect continuous feedback recovered from workers with a view to regulating work as done rather than as imagined.

In the spirit of continuous improvement TCE will conduct a further update to its IMS based on the targeted audit on traffic management contemplated in strategy 4 below.

Related to the update of its IMS, TCE recognises the need for a fulltime IMS Manager role to implement the IMS and will create a dedicated QHSE role within its management structure.

TCE will require the successful applicant for this role to have a strong balance of WHS industry experience, leadership skills and relevant qualifications including someone with experience measuring lead indicators and developing and implementing plans for improvement and managing safety proactively. TCE acknowledges the importance of engaging its workforce in fostering a safety-focused culture at work and considers that this role will assist in facilitating this. It is TCE's intention for this role to be a permanent addition to its workforce which will exceed the term of its commitment under the EU.

The IMS Manager will:

- assist with the implementation of the updated IMS;
- carry out internal auditing and identify opportunities for continuous improvement;
- divide their time between offices and construction sites at a ratio of 60:40; and
- provide training on the IMS.

Site based IMS Representatives will report to the IMS Manager on a monthly basis.

WHS outcome and beneficiaries:

The aim of the IMS is to assist TCE workers and contractors to identify and meet key safety requirements as they conduct their activities at TCE sites. The implementation of an updated IMS will achieve better risk management at TCE and assist with promoting a safe and health work practice.

A dedicated IMS manager will ensure that, particularly as a principal contractor, TCE has a strong commitment to WHS and sets and maintains high standards across its business and its work sites. The IMS Manager will assist management to meet their due diligence requirements, while instilling a high level of confidence through the frequent review of work systems and processes.

The role will provide TCE staff, and its subcontractors, with a higher level of access to the IMS Manager to seek advice and support in relation to WHS matters.

As a result of this strategy WHS benefits are expected in the:

- Workplace
- Industry
- Community

Strategy delivery and verification:

TCE will deliver the following:

- Feedback received from surveyed staff;
- Updated paperless IMS;
- Implementation of the updated paperless IMS;
- Training all TCE staff in the newly upgraded paperless IMS;
- Appointment of a dedicated IMS Manager for a minimum period of 3 years; and
- Further update to IMS based on outcomes of targeted traffic management audit.

The strategy will be delivered and verified by SafeWork NSW in accordance with the below table.

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Survey of TCE personnel	Conduct a survey of 10 TCE personnel to identify the strengths and weaknesses of current IMS and seek suggestions on how TCE can make improvements. A target of 90% completion rate for the survey to be achieved.	Within 4 months of the Commencement Date of the enforceable undertaking	TCE IMS Manager TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Copy of distribution list for surveys Copies of surveys / feedback obtained
Review of IMS	Third party reviewer engaged to review the IMS and rewrite, implementing a paperless system	Within 6 months of the Commencement Date of the enforceable undertaking	TCE IMS Manager TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Documented review of the existing IMS system with recommendations for improvement from the external consultant. Demonstration to SafeWork of updated paperless IMS
Seeking TCE worker feedback	Consult with workers to seek input from a practical perspective, ensuring instructions are clear and concise, able to be understood by all workers and provide improvements to safety in the workplace	Within 8 months of the Commencement Date of the enforceable undertaking	TCE IMS Manager TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Documented records of consultation process (e.g. minutes & attendance register from consultation meetings) Feedback received from workers
Finalisation of IMS	Finalise reviewed IMS incorporating feedback received and distribution to workers.	Within 10 months of the Commencement Date of the enforceable undertaking	TCE IMS Manager TCE Infrastructure Manager and Director TCE General Manager and Director	Demonstration to SafeWork of updated paperless IMS

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
<p>Ongoing performance monitoring of IMS – the IMS will be used for setting of key performance company targets and measurement against those targets within Management Review Meetings. Targets will always be set so that IMS drives constant improvement</p>	<p>TCE will ensure the new IMS contains a series of both lead and lag indicators to measure the performance of TCE safety systems. TCE will establish a schedule of actions to measure both lead and lag indicators, in order to measure the ongoing effectiveness of the IMS. TCE will report monthly on the schedule of actions.</p> <p>Paperless system will be verifiable in real-time, so that site teams and individual personnel that are required to undertake tasks / checks can be prompted to complete uncompleted checklists / inspections. This will drive completion of inspections and required tasks. New hardware will be purchased for sites – Tablets for the completion of tasks onsite – this will be a new way of inspection and onsite data collection which will appeal to TCE workforce. Training will be provided in group settings so that culture can be driven in a positive direction.</p>	<p>Within 10 months of the Commencement Date of the enforceable undertaking</p>	<p>TCE Operations Manager</p> <p>TCE IMS Manager</p> <p>TCE Infrastructure Manager and Director</p> <p>TCE General Manager and Director</p> <p>TCE Operations Manager</p>	<p>Schedule of actions</p> <p>Associated monthly reporting against the schedule of actions for the remainder of the enforceable undertaking</p>
<p>Training of workers</p>	<p>Develop and implement training for all TCE staff in the newly upgraded paperless IMS</p>	<p>Within 12 months of the Commencement Date of the enforceable undertaking</p>	<p>TCE IMS Manager</p> <p>TCE Infrastructure Manager and Director</p> <p>TCE General Manager and Director</p> <p>TCE Operations Manager</p>	<p>Training materials and training attendance registers</p>

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Appointment of IMS Manager	Advertise and interview for role and appoint appropriately qualified IMS Manager	Within 3 months of the Commencement Date of the enforceable undertaking	TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Copy of the job description and job advertisement and accepted offer of employment outlining period of placement, remuneration, position description and reporting arrangements. Monthly newsletter to its workforce that will include updates on WHS matters or a copy of documented 12-month work plan for the role
Submitting an evaluation report assessing the impact of the strategy on WHS to SafeWork NSW	An evaluation of the strategy's effectiveness and impact on WHS will be conducted and an evaluation report will be provided to SafeWork NSW. Feedback will include a follow-up surveys of TCE's staff on the effectiveness of the updated IMS. The evaluation will list any corrective actions identified during the evaluation.	Within 40 months of the Commencement Date of the enforceable undertaking	TCE IMS Manager TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Evaluation report

Cost:

Description	\$ Amount
External providers – IMS Consultant	██████████
Indirect costs	██████████
Remuneration package for IMS Manager based on 2 year placement (Percentage on WHS = 30%)	██████████
Total estimated costs	\$277,740

Strategy No. 4 – Targeted independent traffic management audit

Summary:

TCE will undertake an WHS audit that will identify and detail gaps in TCE's traffic management systems by determining the level of conformance with and implementation of current systems and procedures. TCE will audit against WHS legislative requirements, relevant available guidance material including AS1742.3 *Manual of uniform traffic control devices, Part 3 Traffic control for works on roads*, *Austrroads Guide to temporary traffic management* and *Transport for NSW traffic control at work sites technical manual*, and TCE's operative requirements, focusing on the following areas:

- general traffic management systems & procedures
- interaction zones; and
- staff training.

WHS outcome and beneficiaries:

The Interaction Zone is the location where construction personnel, construction traffic and passing by traffic will always have an interface. Typically, in the Interaction Zone there are no barriers or fixed structures to protect workers on foot from speeding or errant vehicles. There are often workers standing within the work areas directing incoming construction vehicles (such as construction material deliveries) at regular intervals during particular construction activities.

In conducting the audit, TCE believes that the following WHS Outcomes will be achieved:

- Updated TCE policies and procedures to manage the risk to road workers and road users and the specific risks faced by workers in the Interaction Zone
- The audit will serve as a starting point to facilitate further training of road workers surrounding the risks and effective risk management principles and controls for working near traffic and the installation and use of different safety barriers and controls including exclusion and speed zones at the Interaction Zones. The findings of the audit will provide input into a safety alert in relation to lessons learnt what will distributed to industry.

Further, in engaging directors, supervisors and workers to contribute to the development of corrective action plans, there will be direct input and ownership by those doing the work to ensure that corrective actions are appropriate and achievable. This has the secondary benefit of ensuring that there is a greater understanding about risk management and the controls implemented for working in the interaction zone.

As a result of this strategy WHS benefits are expected in the:

- Workplace
- Industry
- Community

Strategy delivery and verification:

TCE will identify and detail improvement suggestions (based on identified gaps) to assist TCE's development of a corrective action plan focused on improved performance across TCE's operations in:

- traffic management; and
- interaction of mobile plant and people at Interaction Zones

The strategy will be delivered and verified by SafeWork NSW in accordance with the below table.

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Providing information to SafeWork NSW regarding third-party auditor to be appointed	Providing details of third-party including CV and relevant qualifications to SafeWork NSW	Within 3 months of the Commencement Date of the enforceable undertaking	TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Evidence of auditor engaged including the relevant qualifications of the auditor
Engaging an appropriately qualified third party auditor and undertaking audit	Multi-day, onsite visit of one of TCE's construction sites including observation of site, job/task observations, employee interviews and existing policy and procedure reviews Third party auditor to deliver report outlining the baseline assessment of TCE's operations and identifying areas for improvement	Within 6 months of the Commencement Date of the enforceable undertaking	TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Copy of final audit plan certified by the auditor as an unaltered copy of the original
TCE's third party auditor to consult with directors, supervisors and workers to develop a corrective actions plan	TCE commits to fully implementing the intended actions arising from the audit unless otherwise agreed by SafeWork NSW	Within 8 months of the Commencement Date of the enforceable undertaking	TCE Infrastructure Manager and Director TCE General Manager and Director TCE Operations Manager	Copy of the plan to action the audit recommendations including actions required, people responsible and timeframes
Undertaking actions in corrective actions plan	Undertake actions and third party auditor to prepare a report verifying	Within 12 months of Commencement Date of	TCE Infrastructure Manager and Director	Quarterly updates provided to SafeWork NSW including evidence

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
	<p>implementation and assessing the effectiveness of the corrective actions.</p> <p>Specifics based on each action item in the prioritised actions.</p> <p>TCE will prioritise implementation of corrective actions based on a risk rating approach to ensure that the item that poses the highest risk to workers is addressed first. An expected timeline of completion for set tasks identified will be developed by TCE and will not exceed 12 months.</p>	the enforceable undertaking	<p>TCE General Manager and Director</p> <p>TCE Operations Manager</p>	<p>for the completion of each recommendation</p> <p>Submitting third party auditor corrective actions review</p>

Cost:

Description	\$ Amount
Cost of external auditor	██████████
Estimated costs to action audit recommendations	██████████
Total estimated costs	\$138,500.00

Strategy No. 5 – Study into Portable Traffic Control Devices

Summary:

TCE will fund a research study into the use of Portable Traffic Control Devices (PTCD) by the civil construction industry in NSW. The objectives of the qualitative and quantitative research study will be to retrospectively review PTCD use by the civil construction industry and analyse anecdotal evidence on the use of PTCD to identify barriers to the use of PTCD over the last 10 years and propose recommendations to increase the uptake of use of PTCD.

Some of the questions that the study will answer include:

- what has been the take up in the use of PTCD in the construction industry in NSW?
- are these devices being consistently used across industry/ geographic areas/ jurisdictions etc?
- which devices are effective in industry / geographic areas / jurisdictions etc?

- what are the impediments to getting greater use of these devices?
- what initiatives can be introduced to drive greater use of these devices?
- do existing guidelines/ requirements need to be improved?

WHS outcome and beneficiaries:

In November 2020, Transport for New South Wales (TFNSW) introduced a requirement to use PTCD in lieu of always using traffic controllers with stop/slow bats. The objective of this is to reduce the risk to traffic controllers by allowing them to control traffic at a safer location away from moving traffic.

PTCD were identified and adopted as a means of allowing traffic controllers to perform their roles at a safer distance from the traffic in high-risk environments. The use of PTCDs significantly reduces the traffic controller's exposure to risk by enabling traffic control from a safe location. The workplace safety benefits of using PTCDs, such as portable traffic signals have been demonstrated time and time again.

TFNSW's Temporary Traffic Management team has identified the benefits of conducting such a study in order to drive further engagement with industry partners on this topic to inform potential changes to its Traffic control at work sites (TCAWS) Technical Manual and more broadly to inform improved traffic management practices. This study will have industry wide benefits as many temporary traffic management service providers deliver services to TfNSW as well as the broader civil construction industry.

As a result of this strategy WHS benefits are expected in the:

- Workplace
- Industry
- Community

Strategy delivery and verification:

TCE will partner with Deakin University (or similar organisation) to produce a comprehensive research study and report into PTCD use by the civil construction Industry in New South Wales which will consider the anecdotal evidence of industry participants from the past 10 years who currently use PTCD to:

- establish the number of industry participants using PTCD;
- consider how the devices are used in industry; and
- consider methods in which industry can be engaged to use PTCD more.

The findings of the PTCD study will be presented at an Industry Forum hosted by TCE discussed under Strategy 8 below.

The strategy will be delivered and verified by SafeWork NSW in accordance with the below table.

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Creation of terms of reference for study. TfNSW will provide expert input on final draft prepared by TCE.	Meeting with TfNSW Temporary Traffic Management team	Within 3 months of the Commencement Date of the enforceable undertaking	IMS Manager TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Submission of terms of reference to SafeWork to approve
Engaging Deakin University or similar organisation to undertake study	Meetings with Deakin University representatives to sign terms of reference	Within 6 months of the Commencement Date of the enforceable undertaking	IMS Manager TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Minutes of meeting with Deakin University and signed terms of reference
Completion of study and production of report	Deakin University to present findings of study and provide report	Within 12 months of the Commencement Date of the enforceable undertaking	IMS Manager TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Submission of study findings presentation and report to SafeWork
Sharing your learnings	Delivery of presentation/ findings at industry forum	Within 26 months of the Commencement Date of enforceable undertaking	IMS Manager TCE General Manager and Director	Industry Forum invitation, promotion materials, presentation material and SafeWork NSW will

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Submitting an evaluation report assessing the impact of the strategy on WHS to SafeWork NSW	An evaluation of the strategy's effectiveness and impact on WHS will be conducted and an evaluation report will be provided to SafeWork NSW	Within 40 months of the Commencement Date of the enforceable undertaking	TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager IMS Manager TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	be invited to present at the Industry Forum An evaluation report will be provided to SafeWork within 29 months of acceptance of the EU

Cost:

Description	\$ Amount
Funding of Study and Report	██████████
Indirect costs	██████████
Total estimated costs	\$112,500.00

Strategy No. 6 – Safe work near traffic and in Interaction Zones guidance material

Summary:

TCE will develop guidance material which will provide lessons learnt on the Incident and further guidance for managing the risk to road workers and road users from hazards at Interaction Zones at construction gates (**Interaction Zone**) and working adjacent to roadways more generally. TfNSW Temporary Traffic Management team will provide expert input, on a final draft prepared by TCE.

The guidance material produced will consist of a Safety Alert that will be published by TfNSW, subject to TfNSW approval based on the documentation prepared by TCE. To complement the content of the Safety Alert, TCE will develop a toolbox talk script to be used by industry at construction sites. The Safety Alert will be informed by the findings of the audit undertaken under strategy 4.

The toolbox talk will contain a QR code to a video of a site showing what best practice at Interaction Zones looks like.

WHS outcome and beneficiaries:

The Interaction Zone is the location where construction personnel, construction traffic and passing by traffic will always have an interface. Typically, in the Interaction Zone there are no barriers or fixed structures to protect workers on foot from speeding or errant vehicles. Also, there are often workers standing within the work areas directing incoming construction vehicles (such as construction material deliveries) at regular intervals during particular construction activities.

In developing the guidance material, TCE believes that the following WHS Outcomes will be achieved:

- TCE will develop a Safety Alert based upon the lessons learnt from the Incident and traffic management audit undertaken in strategy 4 which can be utilised by industry to manage risks to road workers and road users and the specific risks faced by workers in the Interaction Zone. TfNSW will consider publishing the Safety Alert on its website, subject to its approval of the document; and
- The Safety Alert will serve as a starting point to facilitate further training of road workers surrounding the risks and effective risk management principles and controls for working near traffic and the installation and use of different safety barriers and controls including exclusion and speed zones at the Interaction Zones.

As a result of this strategy WHS benefits are expected in the:

- Workplace
- Industry
- Community

Strategy delivery and verification:

TCE will:

- Develop a Safety Alert on managing the risks and hazards to road workers and road users from hazards at Interaction Zones at construction gates and working adjacent to roadways more generally. TfNSW will provide expert input on a final draft of the Safety Alert prepared by TCE and assist TCE with examples of previous safety alerts. It is anticipated that the Safety Alert will be published by TfNSW, subject to its final approval of the document. TCE will develop an accompanying Toolbox talk script and short video based on the content of the Safety Alert which will be made available to industry. The video will demonstrate the content of the Safety Alert and toolbox script by using actions and/or animations to ensure that it is able to be understood by all workers including culturally and linguistically diverse workers. In addition, TCE will provide translated copies of the Safety Alert and script on request.

The strategy will be delivered and verified by SafeWork NSW in accordance with the below table.

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
TCE to develop a final draft Safety Alert	TCE and TfNSW to meet as required	Within 20 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Copies of minutes of meetings with TfNSW. Submitting copies of proposed Safety Alert to SafeWork NSW for approval
TCE develop toolbox talk script and video	TCE to write script and engage third party to assist with creation of short video showing best practice	Within 24 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Toolbox talk script and short video submitted to SafeWork NSW for approval
Submitting an evaluation report assessing the impact of the strategy on WHS to SafeWork NSW	An evaluation of the strategy's effectiveness and impact on WHS will be conducted and an evaluation report will be provided to SafeWork NSW	Within 40 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Evaluation Report

Cost:

Description	\$ Amount
Development of Safety Alert	█
Engaging third party videographer	█

Development of toolbox talk script	
Indirect Costs	
Total estimated costs	\$81,750.00

Strategy No. 7 – Training material development

Summary:

This strategy is designed to build awareness and capacity within staff inclusive of supervisors, team leaders, and subcontractors in the effective identification and management of risks and hazards associated with working near traffic, particularly at Interaction Zones and high risk construction work more generally. This strategy will see the development and provision of the following for all TCE staff to utilise and roll out to their workforce, contractors and subcontractors:

- A 'safe working near traffic' training package based on the Safety Alert; and
- A one day 'train-the-trainer' course for TCE nominated employees to be trained and equipped to roll out and facilitate the training course to their workers and contractors at their respective sites. These trained personnel will be provided with access to online resources and supporting materials.

The TCE specific 'train-the-trainer' course will be modified for more general application (**Generic Train-the-Trainer Course**) and will be made available to Industry at the Industry Forum discussed in Strategy 8.

The scope of the 'safe working near traffic' training will incorporate awareness training, education, and discussion around:

- Duties of all workers under the *Work Health and Safety Act 2011*; and
- The Safety Alert and effective risk management principles and controls for safe working near traffic, particularly in the Interaction Zone.

WHS outcome and beneficiaries:

The training and corresponding 'train-the-trainer' course aims to effectively mitigate risk exposure through building internal capability and consistency for effective identification and management of risks associated with working near traffic. TCE will extend an invitation to its subcontractors to attend the one day 'train-the-trainer' course.

TCE recognises the influence its leaders and supervisors have on the safety culture of the business. Building WHS capability and knowledge of our leaders through the 'train-the-trainer' initiative will help to strengthen the existing safety culture and demonstrate to employees the value that TCE leaders place on safety.

In making the Generic Train-the-Trainer Course available to the Industry, the initiative will help strengthen the safety competence of leaders throughout industry.

As a result of this strategy WHS benefits are expected in the:

- Workplace
- Industry
- Community

Strategy delivery and verification:

TCE will provide the following deliverables under this strategy:

- Development of training material covering Safety Alert content and critical key risks for workers and 'train-the-trainers';
- Safe working near traffic training delivered
- 'Train-the-trainer' training delivered
- Generic Train-the-Trainer Course made available to Industry

The strategy will be delivered and verified by SafeWork NSW in accordance with the below table.

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Development of the training package for 'safe working near traffic'	Development of training package for 'safe working near traffic' including specific and generic 'train-the-trainer' materials such as presentations, demonstration videos and supporting collateral materials. Development of the materials will be completed in consultation with SafeWork NSW to ensure the material is suitable for the wider industry.	Within 24 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Consult with SafeWork NSW and seek endorsement of the design and content of the training package
Conduct the training	Training to be provided to TCE workers and subcontractors	Within 36 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Attendance registers

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
Train the trainer material to be made available to Industry Forum participants	Industry Forum participants will be emailed a copy of the train-the-trainer material.	Within 37 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Email distribution list
Submitting an evaluation report assessing the impact of the strategy on WHS to SafeWork NSW	An evaluation of the strategy's effectiveness and impact on WHS will be conducted and an evaluation report will be provided to SafeWork NSW	Within 40 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Evaluation report

Cost:

Description	\$ Amount
Indirect costs for development and delivery of 'safe working near traffic' training package based on the Safety Alert	██████████
Indirect costs for development of 'train-the-trainer' training package for delivery of 'safe working near traffic' training based on the Safety Alert	██████████
Indirect costs for development of Generic train-the-trainer training package based on the Safety Alert	██████████
Total estimated costs	\$176,000.00

Strategy No. 8 – Industry Forum Discussion on Lessons Learnt, Safety Alert, PTCD & Distribution of Train-the-Trainer material

Summary:

TCE will host an industry forum discussion around the lessons learnt, the Safety Alert and the PTCD study outcomes to educate construction industry participants on managing the risk to road workers and road users from hazards at Interaction Zones and working adjacent to roadways more generally.

TfNSW will promote the forum (hosted by TCE) to its stakeholders through its 'In the Zone' Temporary traffic management newsletter and will consider any offer to present at the industry forum.

TCE will also use the opportunity to discuss and make available to industry participants Generic Train-the-Trainer Course materials.

WHS outcome and beneficiaries:

Raising awareness levels of the importance of safety in the workplace and industry is a responsibility TCE takes seriously. The purpose of this strategy is to bring conversations around safe work and exercising vigilance around temporary work zones (particularly Interaction Zones) into an industry forum and aims to achieve the following objectives:

- Raising awareness around temporary work zones;
- Sharing lessons learnt;
- Identifying tools and resources available to assist industry; and
- Raising awareness about TCE's research study into PTCDs and gaining valuable anecdotal evidence from industry participants to inform the research study.

As a result of this strategy WHS benefits are expected in the:

- Workplace
- Industry
- Community

Strategy delivery and verification:

TCE will host a one day industry forum around the Safety Alert, lessons learnt and the use of PTCDs targeted at industry (**Industry Forum**). It is anticipated that members of the following organisations will be invited to participate in the Industry Forum: Austroads, TfNSW, the Traffic Management Association of Australia and the Civil Contractors Federation (CCF). The Industry Forum will be a one day online forum.

TCE and TfNSW will engage with Austroads, the Traffic Management Association of Australia and the CCF to promote the Industry Forum.

TfNSW and SafeWork NSW will be invited to provide an address at the Forum.

The strategy will be delivered and verified by SafeWork NSW in accordance with the below table.

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
TCE (in consultation with TfNSW, SafeWork NSW & other relevant stakeholders) prepare presentation to be delivered at Forum	Presentation will also include the findings of the PTCD study and lessons learnt	Within 20 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	Submission of presentation material to SafeWork NSW for approval
Advertising and promotion of forum	Preparation of a promotion strategy for promotion of the forum and engaging Austroads, the Traffic Management Association of Australia and the CCF to promote forum	Within 24 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	A copy of the strategy for the promotion of the forum
Hosting of one day face to face forum	One day face to face forum which will be recorded and made available to Industry	Within 38 months of the Commencement Date of enforceable undertaking	TCE General Manager and Director TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	SafeWork NSW be invited to attend and offered an opportunity to speak at the event Copy of recording to be provided to SafeWork NSW
Submitting an evaluation report assessing the impact of the strategy on WHS to SafeWork NSW	An evaluation of the strategy's effectiveness and impact on WHS will be conducted and an evaluation report will be provided to SafeWork NSW	Within 40 months of the Commencement Date of the enforceable undertaking	TCE General Manager and Director TCE IMS Manager	Evaluation Report

What is happening	How is it occurring	When will it happen	Position Title(s) or Area responsible and/or involved	Evidence that will be provided to SafeWork NSW
			TCE Infrastructure Manager and Director TCE Operations Manager TCE IMS Manager	

Cost:

Description	\$ Amount
Development of Presentation	██████████
Hosting Forum	██████████
Attendance by research lead from Deakin University	██████████
Indirect Costs	██████████
Total estimated costs	\$145,750.00

TOTAL ESTIMATED VALUE OF THE UNDERTAKING

\$932,240.00

Section 6 – Execution of Undertaking

Signed: 

[Executed on behalf of The Civil Experts Pty Ltd in accordance with section 127(1) of the Corporations Act 2001]

Name: Mohammed Selim

Position: Director

Dated at Homebush NSW 2140 this 17th day of May, 2023

Signed: 

[Executed on behalf of The Civil Experts Pty Ltd in accordance with section 127(1) of the Corporations Act 2001]

Name: Mohamed Farag Mohamed Elmashhady

Position: Director

Dated at Homebush NSW 2140 this 17th day of May, 2023

Witnessed in the presence of:

Signed: 

Name: Muhammad Fahmi Reza

Dated at Homebush NSW 2140 this 17th day of May 2023

Section 7 – SafeWork NSW's acceptance of undertaking

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 NSW 2000 this 19th day of May 2023

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.

On 12 May 2020, a labour hire worker was injured while undertaking traffic controller duties for The Civil Experts Pty Ltd at a construction site in Bowral.

SafeWork NSW investigated the incident and subsequently alleged that The Civil Experts Pty Ltd contravened section 19(1) of the Work Health and Safety Act 2011.

SafeWork NSW has accepted an enforceable undertaking from The Civil Experts Pty Ltd, ACN: 612 801 340 in accordance with Part 11 of the Work Health and Safety Act 2011 in relation to the abovementioned alleged contravention. This notice has been placed under the terms of the Enforceable Undertaking and acknowledges acceptance of the Enforceable Undertaking by The Civil Experts Pty Ltd.

The undertaking requires the following actions:

- A review and update of the company’s Integrated Management System (IMS) and appointment of a dedicated IMS Manager
- Targeted independent traffic management audit
- Study into the use of Portable Traffic Control Devices in the construction industry in NSW
- Safe working near traffic and Interaction Zone guidance material
- Training material in relation to safe working near traffic and Interaction Zone guidance material
- Hosting an Industry Forum

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