

Work Health and Safety Enforceable Undertaking

Undertaking to the Executive Director, SafeWork SA given for the purposes of part 11 of the Work Health and Safety Act.

by

**Structurally Sound Engineering Pty Ltd
("Structurally Sound Engineering")**

ABN 24 130 835 933

Section 1 - General information

GI(a) details of the person proposing the undertaking.

Street address 20 Christie Road
Lonsdale SA 5160

Mailing address As Above

Telephone 08 8326 6160
Mobile:
Email address

Legal structure Private Company

Type of business Fabrication and Construction

Commencement date

Workers

Full time:	4
Part time:	3
Casual:	2

Products and services Fully operational steel fabrication workshop
Crane truck to assist with onsite installations
Site measures
Engineering specifications on demand
Shop drawings
All surface treatments
Site welding
Liaise with engineers, site supervisors and other trades

Comments

Structurally Sound Engineering is a well established Adelaide business, specialising in the fabrication and installation of structural steel for residential and commercial buildings. With a fully operational workshop and fabrication and a highly-dedicated site installation team boasting over 150 years combined experience in the industry.

We operate our own crane truck to ensure that site installations are carried out efficiently and without delays. This also allows Structurally Sound Engineering to maintain site control which provides improved safety through implementation of our own processes and procedures.

Structurally Sound Engineering is proud of its safety record and until the current occasion has had no significant workplace safety incidents.

As a result, Structurally Sound have become chosen partners of many renowned builders.

GI(b) the details of the alleged contravention.

1. SafeWork SA has alleged that Structurally Sound Engineering contravened sections 19(1) and 33 of the *Work Health and Safety Act 2012* (the Act), with respect to work

carried out as part of its business or undertaking at an Adelaide worksite, by failing to ensure, so far as was reasonably practicable:

(1) the provision and maintenance of a safe system of work in relation to use of the lift on site to transport a steel beam(s) by placing the beam(s) so that it protruded through the lift car trapdoor when travelling to other floors;

(2) the provision of information, training, instruction or supervision that is necessary to protect workers from risks to their health and safety arising from the use of the lift on-site, to transport a steel beam(s) by placing the beam(s) so that it protruded through the lift car trapdoor when travelling to other floors.

GI(c) details of the events surrounding the alleged contravention, eg, incident details

1. On 9 April 2013, the health and safety of three workers was put at risk from work carried out as part of the conduct of the Structurally Sound Engineering's business or undertaking at 49 Gawler Place, Adelaide ("the site"), in that;
 - a. The workers were put at risk of injury when occupying the (eastern) lift, and transporting a steel beam from the ground floor to another floor with the beam positioned so that it protruded through the trapdoor in the lift car ceiling; and
 - b. The workers were exposed to a risk of injury arising from a sudden collision between the beam and the lift counterweight or any other lift shaft items during transport, and the resulting unexpected movement of the lift, beam and lift components.

GI(d) an acknowledgement that an alleged contravention has occurred

1. It is acknowledged that SafeWork SA has alleged that Structurally Sound Engineering has contravened Sections 19(1) and 33 of the Act.

GI(e) the details of any injury that arose from the alleged contravention

1. No injuries were sustained as a result of the alleged contravention.

GI(f) the details of any enforcement notices issued that relate to the alleged contravention.

Notices received:

No Yes (provide details)

Date issued 11/4/2013

Notice type IMPROVEMENT NOTICE

Notice number To Sarah Constructions Pty Ltd

Contravention WHSIN305701

Action taken to respond to notice s 19

Post-incident, lift mechanics from the Otis Elevator Company Pty Ltd inspected the lift, conducted repairs to it, checked it to ensure it was safe to operate, and placed it back in service on 12 April 2013.



Date issued	15/4/2013
Notice type	IMPROVEMENT NOTICE To Sarah Constructions Pty Ltd
Notice number	WHSIN67575
Contravention	s 19 & Reg 739(1) (i)
Action taken to respond to notice	Post-incident, Structurally Sound Engineering created a Safe Work Method Statement ("SWMS") addressing the use of the lift to transport steel beams. It identified the hazards associated with the task, and the controls to be implemented to carry out the work safely.
Gl(g) a statement of assurance about future work health and safety behavior.	
1. Structurally Sound Engineering commits to SafeWork SA to discharge its obligations under the Act now and in the future. This commitment is reinforced by the rectifications set out in section Gl(m) and the undertakings set out in this document.	
When an alleged contravention is associated with an injury/illness.	
Gl(h) The details of the type of workers compensation provided (if the injured person is a worker of the person)	
1. No injuries were sustained as a result of the alleged contravention.	
Gl(i) details of the support provided to the injured person to overcome the injury / illness	
The injured person is:	
1. Not applicable.	
Support provided to the injured person/s or injured person/s family:	
1. Not applicable.	
Gl(j) if the matter involves a fatality or very serious injury¹, a claim to demonstrate that exceptional circumstances exist so the WHS undertaking can be considered.	
Does the contravention involve a fatality or very serious injury?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Gl(k) the details of any existing occupational health and safety management systems at the workplace including the level of auditing currently undertaken.	
1. The Administration Officer for the Company has completed a Certificate IV in WHS since this incident (this course was conducted over 6 weeks) and has now undertaken a complete review of the WHS processes within the Company.	

¹ An injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation of a limb or parts of the body, for example, amputation above the knee or elbow.

2. Structurally Sound Engineering employs and maintains a large range of Safe Work Method Statements in relation to its work, including site specific SWMS in relation to the installation of structural steel.

GI(l) a statement of regret (i.e. not an admission of guilt).

1. Structurally Sound Engineering Pty Ltd sincerely regrets that the incident took place. The company has taken steps to ensure that such an event does not occur again, and continues to monitor its operations to maintain a high standard of vigilance.

GI(m) any rectifications made as a result of the contravention.

1. Following the incident, Structurally Sound Engineering has implemented new workplace policies and procedures to prevent any recurrence of an incident of the type concerned. Specifically: It has produced a SWMS identified as: Installation of beams in lift shaft, which requires that:
 - a. When any load is moved for which the dimensions would exceed the normal physical confines of the lift, a WHS and risk assessment procedure must be undertaken prior to any work commencing.
 - b. All tasks involving lift operation beyond the normal capacity of the lift requires attendance on site of a qualified lift operator.
 - c. Lift manufacturer to place lift into maintenance mode to slow lift speed.
2. Employees are completing or have completed WHS related courses. Specifically:
 - a. WHS Round 4 conducted by MBA SA completed by the company Director, Michael Bradbrook, in June 2015.

Total amount spent on rectifications \$1,850 (to date).

GI(n) an acknowledgement that the WHS undertaking may be published.

1. Structurally Sound Engineering Pty Ltd acknowledges that the undertaking will be published on the departmental internet site and may be referenced in departmental material, and that a public notice of the undertaking may be published in newspapers and other media as determined by the regulator.

GI(o) a statement of ability to comply with the terms of the undertaking.

1. I declare that Structurally Sound Engineering has the financial ability to comply with the terms of this WHS undertaking.

GI(p) The person may be required to provide a statutory declaration.

1. The regulator has requested a statutory declaration outlining details of any prior WHS convictions² or findings of guilt under WHS legislation or WHS-related legislation?

Yes No

2. The statutory declaration is attached (if applicable)

Yes No

(q) Acknowledgment of WHS undertaking overview and guidelines

1. I have read and understood:

- a. Enforceable undertakings—overview version 'Final', dated December 2012, and
- b. Enforceable undertakings—guidelines with respect to the acceptance of a WHS undertaking version 1, dated December 2012.

Section 2 – Mandatory Terms

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

1. Structurally Sound Engineering Pty Ltd commits that all possible steps have been taken to ensure that the behaviour that led to the alleged contravention has ceased and will not reoccur, and reiterates its commitment to discharge its obligations under the Act. New workplace policies and procedures have already been implemented to support these commitments.

MT(b) A commitment to the ongoing effective management of WHS risks

1. Structurally Sound Engineering possesses an ongoing commitment to the improvement of WHS risk management. This is demonstrated by;
- a) The undertakings in this document,
 - b) additional training for staff,
 - c) the implementation of new and improved workplace policies and practices, and
 - d) the introduction of a Safety Management System.
2. Specific details of the above corrective actions are outlined at Annex A to this undertaking.

² Subject to any local legal constraints such as spent conviction legislation.

MT3

MT(c) A commitment to disseminate information about the undertaking to workers, and other relevant parties, and in the annual report (if applicable).

1. Dissemination will be achieved by provision of this undertaking to all staff, providing each staff member sufficient time to read and understand its contents, and obtaining signed confirmation from each staff member that this has occurred. A follow-up staff meeting will be conducted to ensure all employees are committed to the undertaking.
2. Dissemination will occur within three months of the acceptance by SafeWork SA of this undertaking.
3. Structurally Sound Engineering does not produce an annual report, as it is a private company and as such has no ASIC obligation to produce an annual report.

MT(d) A commitment to participate constructively in all compliance monitoring activities of the undertaking.

1. It is acknowledged that the Regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.
2. It is acknowledged that compliance inspections will be conducted by an officer of the regulator at no greater than six monthly intervals, with the final inspection to be conducted once the undertaking is concluded. The undertaking will be concluded on written advice from the regulator, when all of the requirements of the undertaking have been satisfactorily executed.
3. Structurally Sound Engineering commits to cooperating with the regulator's officers, including by making relevant materials available.
4. It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary at the regulator's expense.

MT(e) Strategies that will deliver worker benefits

1. Structurally Sound Engineering Pty Ltd had provided funding and assistance for an administration staff member, Rachel Collins, to complete a Certificate IV WHS training course through the Master Builders Association at a cost to the company of 56 working hours and \$775. Unfortunately the staff member has left the employ of the company, however the employee now has the advantage of the training which also benefits future employers.
2. Structurally Sound Engineering Pty Ltd undertakes to enroll two frontline supervisory staff members, Paul Winchester and Troy Mason, into a 'Safety Supervisor' course conducted by the Master Builders Association. The course is run over five sessions of four hours and covers topics such as safety responsibilities, working at heights, committees and meetings, SWMS, and other safety matters. Actual start dates are dependent on course availability, however the courses will be completed by 29 November 2016, at a cost of \$1325.00 per employee (\$2650.00 in total).
3. Structurally Sound Engineering Pty Ltd also undertakes to engage with MBASA in relation to a WHS audit and safety management system implementation in accordance with the detail contained in Annex A to this undertaking. This will commence by 30 April 2016, at a cost of approximately \$10,500.00.

MT(f) Strategies that will deliver industry benefits

1. Structurally Sound Engineering Pty Ltd undertakes to participate in a forum conducted by MBASA during Safe Work Month in 2016 or to participate in a presentation at another time agreed with SafeWork SA, by providing a speaker to detail the company's experience in relation to the SafeWork SA undertakings process and the benefits of entering such. The estimated cost of this assistance is \$1,000.00.
2. Structurally Sound Engineering undertake to prepare, within three months of the undertaking being accepted by SafeWork SA, an Incident Summary, using the template provided to it by SafeWork SA, which provides an overview of the company/workplace, describes the incident (what happened and who was involved), identifies the probable causes of / contributing factors to how the incident happened, and the corrective action(s) that the company has taken / is taking to rectify the issue(s) and improve work health and safety. The estimated cost of the publication is \$1,000.
3. The building industry is the largest sector in the South Australia and by producing the Incident Summary described above and providing a full page article in the 'SA Builder' magazine. The article with focus on Structurally Sound's experience of participating in the Enforceable Undertaking process, and provide details of their progression, and provide useful WHS information for other builders. The article will appear in the October edition of the magazine. By these publications, Structurally Sound Engineering is demonstrating that it is committed to maintaining high standards of worker safety, and is encouraging its peers and competitors to do likewise. The estimated cost of the development and publication of the article is \$1,000.

MT(g) Strategies that will deliver community benefits

1. Structurally Sound commits to the construction of a new scoreboard at the Morphettville Park Sporting Club football oval. Structurally Sound will provide all labour and sundry materials for the project, with the club self-funding the major materials. This work will provide community work health and safety outcomes in two respects;
 - a. Structurally Sound will endeavor to involve sporting club members in the hands on construction of the scoreboard, which will invoke a sense of community pride and allow Structurally Sound to provide a practical demonstration of, and instruction in, safe and healthy work practices.
 - b. The scorekeepers will gain an improved environment to work in through better and more appropriate access, and superior weather protection, than the current scoreboard provides.
2. Work is expected to commence in October 2016, with an estimated cost to Structurally Sound of \$5,000 (out of a total of \$10,000).

MT(h) Agreement to pay the regulators costs.

1. Agreement is given to paying the regulators costs associated with the undertaking, as itemised below, and acknowledgment that payment is due 30 days after receipt of the regulator's invoice:
 - a. Investigation, legal and administrative costs associated with the alleged contravention and proposed undertaking \$ 2,500

Total amount \$ 2,500

Where appropriate.

MT(i) A commitment to establish and maintain (or maintain if a system already exists) an occupational health and safety management system (OHSMS).

1. A system acceptable to the regulator that satisfies the principles of AS/NZS 4801: 2001 Occupational Health and Safety Management Systems - will be implemented by 30 April 2016. Details of the system implementation is detailed at annex A.
2. Structurally Sound commits to maintaining this system to operate at a high standard on an ongoing basis.

MT(j) A commitment to ensure the OHSMS is audited by third party auditors

Details of the auditors' qualifications against the stated requirements will be provided with audit reports submitted to the Regulator.

Structurally Sound:

1. Commits to ensuring the OHSMS will be audited by accredited third party auditors that meet the principles of *AS/NZS 4801:2001 Occupational Health and Safety Management Systems - Specification with guidance for use*, as set by the regulator in accordance with standard timeframes.
2. Acknowledges that costs associated with these audits will be met by Structurally Sound as part of the undertaking.
3. Acknowledges that the auditors selected to perform the OHSMS audits must meet the qualification requirements of the regulator.
4. Acknowledges that details of the auditor's qualifications against the stated requirements will be provided with audit reports submitted to SafeWork SA.
5. Commits to providing a copy of the Enforceable Undertakings - Information for Auditors of OHSMS fact sheet to the auditor.

MT(k) A commitment to provide a copy of each finalised OHSMS audit report to the regulator.

It is acknowledged that audit reports received from the auditor will be sent to the regulator 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.

It is acknowledged that within 30 days of receipt of the auditor's written report the regulator will be advised of the intended action in addressing each of the report's recommendations.

Reports arising from the OHSMS audits will be delivered to:

Manager, Compliance and Enforcement
Investigation Team
SafeWork SA
GPO Box 465 Adelaide SA 5001

MT(l) A commitment to implement the recommendations from these audits (unless otherwise negotiated with the regulator).

The recommendations resulting from the OHSMS audit will be fully implemented within six months of receiving the audit report, unless the regulator offers a variation of the WHS undertaking due to the actions being unreasonable.

Annex A

Service	Relevant to Item	Information	Timeframe
WHS Gap Analysis / Risk Assessment	MT(b)	Based on current WHS legislation, outcomes form the basis for the WHS Management System.	April 2016
WHS Management System Manual (AS4801)	MT(b) MT(j)	Includes <ul style="list-style-type: none"> • Policy Statements • Referenced procedures • Forms and Registers • Standard Operating Procedures / Safe Work Instructions • Management Plan templates – Safety and Emergency • Consultation during formation and handover. 	Start: May 2016 Completion: by end of June 2016
Internal Audits	MT(e)	Criteria as per AS4801:2001.	August 2016
	MT(K) MT(i)	Quantity: 2	September 2016
Site Inspections	MT(e)	Workshop and site inspections to verify implementation of	August 2016
	MT(K)	WHS Management System.	September 2016
	MT(i)	Quantity: 4	October 2016 November 2016
Article – SA Builders	MT(f)	MBASA to assist	August 2016
Incident Summary to SafeWork SA	MT(g)	MBASA to assist	August 2016

Section 3 - Offer of undertaking

I offer this undertaking and commit to the terms herein.

Signed:
[Person]

.....
[Print name]

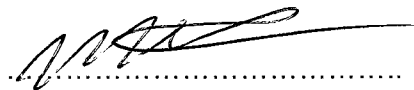
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[Position]

Dated at this

..... day of, 20.....

ØR

As a duly authorised person of **Structurally Sound Engineering I** offer this undertaking and commit **Structurally Sound Engineering** to the terms herein.

Signed: 
[Duly authorised person]

Michael Bradbrook
.....
[Print name]

Director
.....
[Position]

Dated at *Adelaide* this

15 day of *April*, 20*16*

Section 4 - Departmental acceptance of undertaking

I accept this undertaking as an enforceable undertaking under section 216 of the Work Health and Safety Act 2012 SA.

Signed: *Marie Beland*

Executive Director, SafeWork SA

MARIE BELAND
[Print name]

Dated at *Keokuk* this *19* day of *April*, 20*16*