

Section 1 – General Information

GI(a) details of the person proposing the undertaking

Street address: 9 Sherbooke Boulevard, Woodcroft, South Australia 5162

Mailing address: As above.

Telephone: (08) 8357 9888 Mobile:

Email address: callanmac@adam.com.au

Legal structure: Body Corporate

Type of business: Carpentry

Commencement date: 14 September 2012

Workers Full time: Part time: 0 Casual: 0
Total: (as of 17 January 2018 and subject to change).

Products and services: Callan MacGillivray Pty Ltd is a partner to the partnership of "Textbook Carpentry". Textbook Carpentry provides first fix carpentry services to clients throughout South Australia.

Comments: On 9 August 2016 at 74 Fisher Street, Fullarton, South Australia Textbook Carpentry was providing first fix carpentry services when a timber frame fell on a worker who, as a consequence, suffered fatal head and brain injuries.

Callan MacGillivray Pty Ltd has undertaken to plead guilty to a breach of sections 19(1) and 32 of the *Work Health and Safety Act 2012 (SA)* in that it failed to ensure that its workers used a system of work which minimised the risk of a 28m timber framework falling by requiring that all props used as temporary bracing not only be secured to a stud or top plate of the wall frame, but **also** at the base of the prop to the slab, the ground, or some other immovable object.

The purpose of this enforceable undertaking is to set out the manner in which Callan MacGillivray Pty Ltd will also implement into its policies and procedures how safety will be taken into account when determining:

1. The sequence in which wall frames are erected;
2. Where internal walls can be used for bracing; and
3. Where temporary bracing will be used,

to ensure that adequate bracing is provided at all times that first fix carpentry is being performed.

GI(b) the details of the alleged contravention

The regulator has alleged that Callan MacGillivray Pty Ltd has contravened the *Work Health and Safety Act (SA) 2012* on 9 August 2016.

It is alleged that Callan MacGillivray Pty Ltd has contravened sections 19(1) and 32 of the *Work Health and Safety Act 2012 (SA)*, in that it failed to provide and maintain, so far as reasonably practicable, a safe system of work, in that it failed to require a construction sequence designed to minimise the amount of unsupported framework, such that whenever an eastern wall frame could be supported by an adjacent perpendicular internal wall frame, the supporting frame should be immediately erected, braced, fixed to the slab and used as a temporary support for the eastern wall frame.

GI(c) details of the events surrounding the alleged contravention, e.g. incident details

Callan MacGillivray Pty Ltd, through the partnership of Textbook Carpentry, was contracted to provide first fix carpentry services at 74 Fisher Street, Fullarton, South Australia.

On 9 August 2016, the deceased worker, was performing carpentry duties onsite as an apprentice carpenter.

At the time of the incident the worker was laying straps into the wall frames.

The worker was working near timber framework intended on comprising part of the eastern wall of a house.

The timber framework consisted of four wall frames secured to each other in a line 28 metres long.

Temporary propping was secured to the timber framework, but was not securely fixed to the slab, the ground or other immovable object.

The deceased worker was positioned underneath one of the eastern wall frames when two wall frames collapsed and one fell on the worker.

The deceased worker suffered head and brain injuries and was transported to hospital by ambulance.

GI(d) an acknowledgement that the regulator has alleged that a contravention has occurred.

It is acknowledged that the regulator has alleged that Callan MacGillivray Pty Ltd has contravened sections 19(1) and 32 of the *Work Health and Safety Act (2012)*.

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

The worker died from his injuries.

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

Notices received:

No: Yes: X (provide details)

1. Prohibition Notice dated 9 August 2016 issued to C J MacGillivray Family Trust (Jarred MacGillivray Pty Ltd is trustee of this trust) requiring Textbook Carpentry to stop the activity of building and installing wall frames.
2. Improvement Notice dated 9 August 2016 issued to C J MacGillivray Family Trust (Jarred MacGillivray Pty Ltd is trustee of this trust) requiring Textbook Carpentry to review and revise control measures for the safe installation of wall frames.

GI(g) a statement of assurance about future work health and safety behaviour

Callan MacGillivray Pty Ltd is committed to discharging its obligations pursuant to the *Work Health and Safety Act 2012 (SA)*. This commitment is reinforced by the changes to its workplace policies and procedures set out below and the undertakings provided in this documents.

When an alleged contravention is associated with an injury/illness

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

Not available.

GI(i) details of the support provided to the injured person to overcome the injury/illness

Not applicable.

GI(j) If the matter involves a fatality or very serious injury, a claim to demonstrate that exceptional circumstances exist so the WHS undertaking can be considered.

Callan MacGillivray Pty Ltd has undertaken to plead guilty to a breach of sections 19(1) and 32 of the *Work Health and Safety Act 2012 (SA)* in that it failed to ensure that its workers used a system of work which minimised the risk of a 28m timber framework falling by requiring that all props used as temporary bracing not only be secured to a stud or top plate of the wall frame, but **also** at the base to the slab, the ground, or some other immovable object.

There is currently no industry standard on temporary bracing methods and the use of internal walls as temporary bracing to provide guidance to carpenters performing first fix carpentry. The purpose of this undertaking is to make a commitment to ensure that safety is taken into account when determining the manner and sequence in which wall frames are erected and temporarily braced on all future sites controlled by Callan MacGillivray Pty Ltd.

GI(k) the details of any existing occupational health and safety management systems at the workplace including the level of auditing currently undertaken

Callan MacGillivray Pty Ltd (through Textbook Carpentry) conducts a risk assessment/job safety analysis at each site and the results are communicated to all persons affected at a toolbox meeting.

In addition to this, the pre-existing Safe Work Method Statement has been amended to specifically address the following prior to the commencement of first fix carpentry work:

1. the sequence in which wall frames are to be constructed and erected, such that where possible internal wall frames will be erected to provide additional bracing to external wall frames, prior to continuing to erect further external wall frames;
2. where possible, temporary bracing is placed at each "join" of the wall frames, and if not possible additional safety measures are to be put in place; and
4. all temporary bracing is to be secured to a stud or top plate and secured at the base to the slab, the ground, or some other immovable object.

It is a requirement that all employees of Callan MacGillivray Pty Ltd undergo an induction with respect to the Safe Work Method Statement.

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

Callan MacGillivray Pty Ltd sincerely regrets that the incident occurred.

It has taken steps to ensure that sufficient temporary bracing is used to avoid a similar incident occurring in the future and will continue to take steps to ensure that a similar incident does not occur again.

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

Since the incident Callan MacGillivray Pty Ltd has taken the following measures:

1. a risk assessment/job safety analysis is performed at each site and the results are communicated to all persons affected at a toolbox meeting;
2. the risk assessment/job safety analysis takes into account the sequence in which wall frames are to be constructed and erected, such that where possible internal wall frames are erected to provide additional bracing to external wall frames, prior to continuing to erect further external wall frames
3. as a matter of policy temporary bracing is used at all wall frames junctions;
4. all temporary bracing is secured to a stud or top plate and secured at the base to the slab, the ground, or some other immovable object; and
4. the Safe Work Method Statement has been amended as per section GI(k) above and all employees of the business Textbook Carpentry have been notified of this in a Toolbox Discussion.

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

Callan MacGillivray Pty Ltd acknowledges that this undertaking document will be published on the regulator's internet site and may be referenced in the regulator's publications.

It is also acknowledged 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

Callan MacGillivray Pty Ltd declares that it has the ability to comply with the financial and other terms of this undertaking document.

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

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

No.

GI(q) Acknowledgement of WHS Undertaking overview and guidelines

Callan MacGillivray Pty Ltd has read and understood:

Enforceable undertakings – an overview – Version 1 December 2012

Enforceable undertakings – guidelines with respect to the acceptance of a WHS undertaking – Version 1 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

Callan MacGillivray Pty Ltd is committed to ensuring that the alleged behaviour has ceased and will not happen again.

Callan MacGillivray Pty Ltd has taken the steps set out in section GI(m) to ensure that a similar incident does not happen again.

Callan MacGillivray Pty Ltd is committed to complying with its obligations under the *Work Health and Safety Act 2012 (SA)*.

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

Callan MacGillivray Pty Ltd is committed to the ongoing management of WHS risks. This commitment is evidenced by the steps taken in section GI(m) above and the undertakings provided in this document.

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

Callan MacGillivray Pty Ltd will provide a copy of this undertaking to all employees of Textbook Carpentry within seven (7) days of the date of this undertaking.

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

It is acknowledged that the Regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.

It is acknowledged that compliance inspections will be conducted by an officer of the regulator at approximately six monthly intervals, with the final inspection to be conducted once all aspects of the undertaking have been implemented and are complete.

Cooperation will be given to allow the regulator's officers to assess compliance including giving access to relevant material (evidence of compliance).

It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary.

Callan MacGillivray Pty Ltd will provide a report to the Regulator at 6 (six) monthly intervals to advise the Regulator of activities undertaken by Jarred MacGillivray Pty Ltd to comply with this undertaking. The first report being due 6 months after the date of this undertaking.

MT(e) Strategies that will deliver worker benefits

The dissemination of this undertaking will ensure that all employees of Callan MacGillivray Pty Ltd are aware of the issues raised in this undertaking.

The steps taken by Callan MacGillivray Pty Ltd set out in section GI(m) above will improve worker safety on sites controlled by Callan MacGillivray Pty Ltd.

MT(f) Strategies that will deliver industry benefits

Adelaide Training and Employment Centre ('ATEC') is a not for profit organisation which provides skills training, apprenticeship and recruitment services for school students, school leavers, apprentices, jobseekers, business, and existing workers.

ATEC runs work health and safety courses on the following dates:

Ottoway: 9 April, 4 June, 6 August, and 8 October

Lonsdale: 7 May, 13 August, and 5 November

Callan MacGillivray Pty Ltd will commit to making a 20 minutes presentation to first year apprentices about the importance of work health and safety and how the wall frame collapse on one of their sites has affected all of its workers including Callan MacGillivray personally, and how it runs its business. The presentation will include lessons learnt as a result of the incident. The aim of the presentation will be to provide first year apprentices with an understanding of the impact that worksite incidents have on everyone involved and put safe work practices into this context.

Callan MacGillivray Pty Ltd will present at 3 or 4 of the above ATEC sessions each year at 3.00pm for a 20 minute presentation. The balance of the above sessions will be presented by Callan MacGillivray Pty Ltd which has also entered in an undertaking with SafeWork SA. Callan MacGillivray Pty Ltd commit to working with Jarrad MacGillivray Pty Ltd to ensure that either Jarrad MacGillivray Pty Ltd or Callan MacGillivray Pty Ltd attend at each of the above ATEC sessions for a period of 4 years.

10 to 15 apprentices attend each course. Over the year, it is estimated that at least 70 apprentices will attend the course, and over the period of 4 years 280 apprentices will have attended the course.

Callan MacGillivray Pty Ltd commits to providing evidence of attendance at the above sessions and the number of students attending each session in its 6 monthly report to Safework SA pursuant to paragraph MT(d) of this undertaking.

MT(g) Strategies that will deliver community benefits

Callan MacGillivray Pty Ltd will commit to:

1. joining an industry association and writing the association a letter seeking support for the development of an Australian Standard specifying methods and uses of temporary bracing in the construction industry; and
2. co-sponsoring with Jarrad MacGillivray Pty Ltd an award relevant to the health and safety of apprentices or young workers in the building/construction industry in memory of Clyde Norris, to be presented on an annual basis,
3. providing charitable donations as specified below,

for a period of 4 years.

Callan MacGillivray Pty Ltd will commit \$5,000 per year for a period of 4 years to cover the costs of the following strategies:

1. \$500 in prize money for the winner of the award in the name of Clyde Norris (presented jointly with co-sponsor Jarrad MacGillivray Pty Ltd).
2. \$2250 donation to the HIA Charitable Foundation on condition that the funds be used for the purpose of initiatives directed at apprentice health, safety and/or wellbeing within the building/construction industry of South Australia.
3. \$2250 donation to registered charity Mates in Construction on condition that the funds be used for the purpose of initiatives directed at apprentice health, safety and/or wellbeing within the building/construction industry of South Australia.

Callan MacGillivray Pty Ltd undertakes to provide evidence of provision of the said funding when reporting to Safework SA at 6 monthly intervals pursuant to paragraph MT(d) of this undertaking.

MT(h) Agreement to pay the regulator's costs

Agreement is given to paying the regulators costs associated with the undertaking, as itemised below, and acknowledgement that payment is due 30 days after receipt of the regulator's invoice:

Investigation, legal and administrative costs associated with the alleged contravention and proposed undertaking

Total Amount \$2,500

Section 3 – Offer of undertaking

As a duly authorised person of Callan MacGillivray Pty Ltd I offer this undertaking and commit Callan MacGillivray Pty Ltd to the terms herein.

Signed: *Callan MacGillivray*

Callan MacGillivray (Sole Director)

Dated at Adelaide this *15* day of *March* 2018

Section 4 – Department acceptance of undertaking

I accept this WHS undertaking for and on behalf of SafeWork SA.

Signed: *[Signature]* **EXECUTIVE DIRECTOR** Position:

Print name: **MARTYN CAMPBELL** *15/3/2018*

