



Government
of South Australia

SafeWork SA

Application for proposed **ENFORCEABLE UNDERTAKING**

The commitments in this undertaking are offered to the regulator by

Build Tec Group Pty Ltd

ABN / ACN 45 008 091 414

The information provided in this document is for the purpose of an undertaking given to the regulator under Part 11 of the *Work Health and Safety Act 2012* (SA). This information will be managed within the requirements of the current State Government privacy regime.

The terms of an accepted enforceable undertaking are a matter of public record.

When an enforceable undertaking is accepted, notice of the decision to accept it and reasons for that decision will be published by the regulator on the SafeWork SA website within 14 days of the date of the decision.

Enforceable undertakings will not be removed from the public register and will remain on the register after a company or individual has discharged all obligations of the undertaking.

COMMENCEMENT OF UNDERTAKING

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. The undertaking and its enforceable terms will commence to operate as a legally binding commitment on the part of the person from the date it is given.

SECTION 1: GENERAL INFORMATION

1.1 Details of the person proposing the undertaking

Nominated person: (Point of contact for SWSA communications)	Build Tec Group Pty Ltd (BTG) Michael Carrocci
Street address:	99 King William Street, Kent Town, SA 5067
Postal address:	as above
Telephone:	0403 383 470
Email address:	mc@buildtec.com.au
Legal structure:	Incorporated entity
Type of business:	Construction
Commencement date:	1995
Workers: Full time:	24
Part time:	N/A
Casual:	N/A
Products and services:	Commercial and residential construction
Comments:	<p>BTG is part of the Buildtec Group. The Buildtec Group is a proudly South Australian-based group of companies with extensive experience in design, construction, management, finance and property development offering services across the complete spectrum of property development and construction projects.</p> <p>For 50 years, the Buildtec Group has been actively shaping South Australia through an impressive portfolio of property development and construction projects spanning the residential, commercial, and industrial sectors.</p>

1.2 Details of the alleged contravention

While no formal contravention of the *Work Health and Safety Act 2012 (SA)* (**WHS Act**) has been alleged, BTG understands the correct characterisation to be an

alleged contravention of s 20 of the WHS Act with respect to an incident involving the partial collapse of Deltacore at a BTG site, on 26 September 2019.

1.3 Detail the events surrounding the alleged contravention

A worker was performing works at a site in Bowden including concreting the floor on level 5 of a BTG construction site when a Deltacore panel fell through to level 4. Consequently, the worker also fell through to level 4.

1.4 Details of any enforcement notices issued that relate to the alleged contravention



Tick if there were no notices issued by SWSA in relation to the contravention

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice
26/9/2019	Prohibition	308430	Stop all construction work on level 5	Level 5 was secured
26/9/2019	Prohibition	308432	Stop production work on level 3, 4 & 5 until the collapsed Deltacore panel has been safely removed as per Engineers recommendations.	Collapsed Deltacore panel was safely removed as per Engineers recommendations.
26/9/2019	Prohibition	308580	Access to Building	Site was secured
26/9/2019	Improvement	310740	In accordance with Regulation 38, review and as necessary review the installation of Deltacore to ensure that structural failure does not reoccur.	The structural design was reviewed by a Structural Engineer and procedures were updated

1.5 Detail the injury sustained or illness suffered by worker/s or other/s as a consequence of the alleged contravention detailed above

The injuries sustained by the worker were a dislocated right shoulder and laceration about his eye.

1.6 Detail the employment status and the workers' compensation or other insurance status regarding the person who sustained injury or suffered illness as detailed in 1.5

The injured person is:

- ☐ an employee of the entity
- ☐ a self-employed person
- ☒ other - contractor employee
- ☐ not applicable

Status: We are unsure of the claim status but understand the worker has recovered.

1.7 Detail the support provided or proposed by the person to the injured person and/or family or other/s

Date	Description of support	Comments
On-going	Contractor update, personal contact and on-going contact with the worker.	Following the incident we received updates from the worker's employer as to his progress.
		A director of BTG has also made phone contact with the worker to check on his progress.
		BTG remains in contact with the worker, so much so the worker, at BTG's invitation, has agreed to participate in our EU proposal.

1.8 Detail any current work, health and safety systems at the workplace

The regulator has been provided with BTG's WHS Management Plan in place for the project. This document provides a high-level overview to BTG's approach to safety.

Each project undertaken by BTG has in place its own site specific WHS Management Plan.

1.9 Detail the level of auditing currently undertaken on the work, health and safety systems referred to in term 1.8, including compliance audits and audit frequency

Auditing can vary subject to the complexity and length of particular jobs.

There are fortnightly safety meetings at each site. These meetings are led by a director of BTG and comprise the site team (typically a project manager, contract administrator and site supervisor). At these meetings safety processes are reviewed, which includes but is not limited to, reviews of SWMS based on site conditions and impending work requirements. BTG also undertakes regular reviews of its projects, which may include reviews at policy and procedure level as well as site reviews etc.

BTG conducts an annual review of safety management system and there is ongoing monitoring of BTG's online safety management system SiteBook.

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

BTG has engaged with its management in relation to the creation and proposed implementation of its EU proposal. This has also included consultation with its own workforce and the injured worker.

If the EU proposal is accepted, once implemented, BTG contractors will be immediately brought on-board with respect to the operation of the undertaking.

1.11 Detail the rectifications to the workplace or work practices made as a result of the alleged contravention and the enforcement notices issued

The installation of Deltacore panels and structural design was reviewed and systems revised as follows:

- Tower Crane Hire and crane crew is subcontracted to Titan cranes. The Lifting SWMS was reviewed by Titan Crane Hire with specific reference to Deltacore. This led to an update to include further reference to specific Deltacore Lifting and storage requirements. This was previously a separate document.
- Operationally, once Deltacore is placed in position by the crane crew, any final positioning of planks, site cut outs and installation of reo-bars is completed by our subcontract labour crew from Ambush. The SWMS for this process was reviewed and updated with input from all, including the BTG site manager.
- Additionally, concrete topping to complete the structural design is now poured by subcontract company Caiazza Concrete. Specific reference to placing topping slabs to Deltacore has been reviewed and the SWMS has been expanded at 12A to include evidence on pre pour inspection.

- BTG also ensured the structural design was reviewed with PT Design, the project structural engineer. Following the review, it was determined that side cuts for tie bars would be a maximum embedment of 300mm in lieu of the typical 600mm.
- Finally, it was also determined that all planks requiring on site cutting would be propped prior to cutting, with such propping remaining until the topping slab has cured.

Total amount spent on rectifications \$ 28,750 (ex GST)

SECTION 2: GENERAL TERMS

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2

BTG acknowledges that the Regulator has alleged that BTG contravened sections 20 and 32 of the Act. Specifically, failing to provide a workplace that is without risks to the health and safety of any person.

2.2 Statement of regret that the alleged contravention occurred and the reasons the person considers this undertaking is a more appropriate response to the alleged contravention than a court imposed sanction

BTG deeply regrets that the alleged contravention occurred. As a company involved in inherently dangerous work we have always taken pride in the level of safety provided for all our workers. It is particularly distressing, therefore, to know that this incident occurred and that the worker was injured as a result.

This is BTG's first alleged contravention of the WHS Act as a result of the incident on 26 September 2019. BTG takes pride in the work it undertakes and the working environment it provides for its workers. On that basis, BTG is a good corporate citizen.

The nature of the proposed undertaking, set out below, is preferable in all the circumstances both in relation to the direct assistance to the community provided and also the significant public and industry benefit gained from the training and awareness program proposed.

In our submission, such an outcome outweighs any benefit to the public expectation with respect to the imposition of a court-imposed sanction.

2.3 Statement of commitment that the behaviour, activities and other factors which caused or led to the alleged contravention has ceased and will not reoccur

BTG is committed to continuous improvement in its approach to workplace relations management.

BTG has developed a specific SWMS for the activities that gave rise to the incident.

Further, as part of this undertaking, BTG is committing itself to enhance and upgrade its safety management system.

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

I have read and understood the **Guidelines for the acceptance of an enforceable undertaking**

Version: 1

Dated: July 2018

2.5 Acknowledgement that this undertaking may be published and publicised

2.5.1 BTG acknowledges that the undertaking may be published on the SafeWork SA website and referenced in SafeWork SA material.

2.5.2 BTG acknowledges that the undertaking may be publicised in newspapers.

2.6 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

2.6.1 BTG has the financial ability to comply with the terms of this undertaking and has provided evidence by way of correspondence from its accountant with this undertaking to support this declaration.

2.6.2 In the event of impending liquidation or sale of the entity, BTG will advise SafeWork SA of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

2.7 Statement regarding person's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

None.

2.8 Statement regarding Intellectual Property Licence

BTG, grants SafeWork SA a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any materials developed as a result of this undertaking.

2.9 Acknowledgement that the person may be required to provide a statutory declaration

Has SafeWork SA requested a statutory declaration outlining details of any prior work health and safety convictions¹, subject to any local legal constraints such as spent conviction legislation, or findings of guilt under work health and safety legislation or work health and safety related legislation?

☐ YES ☒ NO

The statutory declaration is attached (if applicable)

☐ YES ☐ NO

2.10 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

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

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

2.10.3 It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary at the regulator's expense.

2.11 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

The implementation and progress of the proposed EU will be an agenda item at management's fortnightly meetings.

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

BTG is committed to promoting the benefits contained within this undertaking and to the undertaking itself.

¹ Subject to any local legal constraints such as spent conviction legislation

BTG will disseminate this information to the industry, community, employees and contractors to raise awareness of the ongoing monitoring of safe work practices.

SECTION 3: ENFORCEABLE TERMS

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and a minimum cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

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

Dissemination will be achieved by doing the following:

Please see below for information relating to the dissemination of the relevant parts of the EU itself (for example, through presentations and publications).

In addition, once implemented, BTG's own internal safety and project management systems will be immediately updated to incorporate the provisions of the EU. All workers, and where relevant, contractors, will then be aware of, and have access to, the content of the proposed EU.

Dissemination will occur by BTG providing advice of the EU at a safety meeting at each site meeting and toolbox talks.:

3.2 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for workers/others

Activities		Minimum cost	Timeframe
3.2.1	BTG will upgrade our current WHS management system to be compliant with AS/NZS ISO 45001 2018.	\$361,000.00	12 months from acceptance
3.2.2	BTG will engage E.Q.A.S (Aust) Pty Ltd as a third party auditor to audit the WHS system and corrective actions to be completed within 6	\$ as above	Two years from acceptance

	months of receiving the audit reports. Audit report and evidence that corrective actions have been completed to be provided to the regulator within 30 days.		
Total minimum cost of benefits for workers/others		\$ 361,000.00	

3.3 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for industry

Activities		Minimum cost	Timeframe
3.3.1	BTG will work with the MBA to share learnings from this incident to benefit and/or promote safety within the construction industry. This proposal will focus on the methodology of management of the install of Deltacore (or similar precast flooring systems). There has been some interest in this topic from other builders BTG meet at MBA meetings. Topics will include; - design review to confirm suitability of the materials - planning & ordering the materials - identification of risks with proposed use & install of the materials- design of the install process- testing / prototyping the install process- review and revisions of the install process based on test/ prototype process- install process & record keeping- post install checks & review	\$ 21,000.00	12 months from acceptance

3.3.2	BTG will publish an article in the MBA Magazine "SA Builder" based on the information from 3.3.1. SA Builder is a publication prepared by MBA and distributed to MBA's membership and other industry parties	\$ as above	9 months from acceptance
3.3.3	BTG will present the article as a training course as part of the MBA's ongoing training programs. The intellectual property from this presentation will be available to the MBA and SafeWork SA.	\$ as above	12 months from acceptance
Total minimum cost of benefits for industry		\$ 21,000.00	

3.4 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for community

Activities		Minimum cost	Timeframe
3.4.1	BTG will donate \$15,000 to Mates in Construction. The donation is given to allow Mates in Construction to continue with their free industry training session relating to suicide awareness. BTG will donate \$7,500 to Cancer Council SA. The donation is given to allow Cancer Council SA to continue to support all Australian affected by cancer through support, research and prevention programs.	\$22,500.00	18 months from acceptance
Total minimum cost of benefits for the community		\$ 22,500.00	

3.5 Agreement to pay the regulator's costs

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

Recoverable costs	Amount
Investigation, legal & administrative costs associated with the alleged contravention & proposed undertaking	\$ Enter amount
Compliance monitoring costs	\$ Enter amount
Publication costs	\$ Enter amount
Total Amount	\$ Enter amount

3.6 Minimum spend

3.6.1 BTG acknowledges the minimum spend for this undertaking will comprise of the:

(The amounts below should correspond with total amounts from terms 3.2–3.5 above)

Estimated total value of	Minimum spend
Benefits to workers/others	\$ 361,000.00
Benefits to industry	\$ 21,000.00
Benefits to community	\$ 22,500.00
Regulator costs	\$ 0
Estimated total minimum spend for the undertaking	\$ 404,500

3.6.2 BTG agrees to spend any residual amount arising from the total minimum spend value not being met. Agreement on how to spend this residual will be sought from the regulator.

3.7 A commitment to establish and maintain (or maintain if a system already exists) a work, health and safety management system (WHSMS)

BTG gives this commitment.

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

BTG gives this commitment.

Details of the auditor's qualifications against the stated requirements will be provided with audit reports submitted to the regulator.

An update, together with supporting evidence, in relation to compliance with each of the enforceable terms of this undertaking will be provided to the regulator at six monthly intervals during the course of the undertaking.

3.9 A commitment to provide a copy of each finalised WHSMS audit report to the regulator

3.9.1 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.

3.9.2 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.

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

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

SECTION 4: OFFER OF UNDERTAKING

EITHER

I offer this undertaking and commit to the terms herein.

Signed: 

[Person]

Michael Carrocci

[Print name]

Director

[Position]

Dated at Kent Town this 23rd day of September 2021

OR

As a duly authorised person of Enter name of person I offer this undertaking and commit
Enter name of person to the terms herein.

Signed: _____
[Duly Authorised Person]

[Print name]

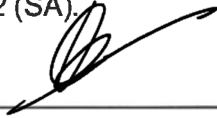
[Position]

Dated at _____ this _____ day of _____ 20_____

SECTION 5: ACCEPTANCE OF UNDERTAKING

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

Signed:



[Person]

Martyn Campbell

[Print name]

Executive Director

[Position]

Dated at Keswick this 24th day of September 2021



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