



Government
of South Australia

SafeWork SA

Application for proposed **ENFORCEABLE UNDERTAKING**

The commitments in this undertaking are offered to the regulator by

CRANE SERVICES PTY LTD
(‘the Company’)

ABN 65 109 586 647

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)	Andrew Munckton
Street address:	50-52 Francis Road, Wingfield, South Australia
Postal address:	As above
Telephone:	08 8244 9167
Email address:	HSEQ@craneservices.com.au
Legal structure:	Body Corporate
Type of business:	Construction – Crane Hire
Commencement date:	October 2004
Workers:	40
Full time:	
Part time:	4
Casual:	1
Products and services:	Crane Services is a south Australian owned and operated hirer of mobile cranes with over 40 years of industry experience.
Comments:	

1.2 Details of the alleged contravention

While no formal contravention of the *Work Health and Safety Act 2012 (SA)* (the Act) has been alleged, the Company understands the correct characterisation that could be made to be the following with respect to a crane overturn which occurred on the Heathfield High School Project on 11 February 2021:

- Failed in its duty to comply with health and safety, under Section 32 of the Act;
- Failed in its duty to ensure, so far as is reasonably practicable, the health and safety of workers engaged, or caused to be engaged by the person, while the workers are at work in the business or undertaking, under Section 19(1) (a) of the Act;

- Failed in its duty to ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking, under Section 19(2) of the Act;
- Failed in its duty to ensure, so far as is reasonably practicable, the provision and maintenance of a work environment without risks to health and safety, under Section 19(3)(a) of the Act;
- Failed in its duty to ensure, so far as is reasonably practicable, the provision and maintenance of safe systems of work without risks to health and safety, under Section 19(3)(c) of the Act;
- Failed in its duty to ensure, so far as is reasonably practicable, the safe use, handling and storage of plant, structures and substances without risks to health and safety, under Section 19(3)(d) of the Act;
- Failed, as a duty holder, in managing risks to health and safety, to identify reasonably foreseeable hazards that could give rise to risks to health and safety, under regulation 34 of the *Work Health and Safety Regulations, 2012* (SA) (the Regulations);
- Failed as a person conducting a business or undertaking to manage risks associated with the carrying out of construction work in accordance with Chapter 3 Part 1, under regulation 297 of the Regulations;
- Failed as a person conducting a business or undertaking that includes the carrying out of high risk construction work to put in place arrangements for ensuring that high risk construction work is carried out in accordance with the safe work method statement for the work, under regulation 300 of the Regulations;

1.3 Detail the events surrounding the alleged contravention

On Thursday 11th February 2021 at approximately 8.00am Crane Services CSH087 a 70t Tadano Faun (SafeWork Registration 685677) was performing lifts at Heathfield High for a client when an incident occurred causing the crane to roll over.

No-one was injured though the Crane Operator was taken to hospital as a precautionary measure.

Day 1 (10th February 2021)

The crane was mobilised to site to conduct works for a client (a building company), works included picking up and placing steel beams and stillages over the floor area.

The operator had a copy of the previous lift study for a smaller capacity crane used for the same job. As this crane had a larger lift capacity than the previous crane, the original lift study would be sufficient for the operations required.

Upon arriving on-site, the operator did a site inspection and ascertained he could set the crane up closer to the work site thus reducing his working radius to the one on the previous lift study.

Tadano Faun ATF70G-4 Capacity 3.4t@ 24.0m Radius 41.5m
Main Boom Lickewill F18A055 Capacity 2.4t @ 24.0m Radius
40.0m Main Boom.

The crane worked continually all day without incident.

Day 2 (11th February 2021)

The operator and rigger arrived on-site and conducted Crane Services authorised "pre-start" and the operator was witnessed checking the timbers under the outriggers.

The operator once started and programmed the computer again, checked the outrigger pressure on the computer from the previous day and confirmed the pressures had remained the same as previous day, so there was no reason to reset them.

After a couple of lifts the operator noticed that the pressures had changed on the outrigger loadings on the computer. To allow the operator to put the crane into a safe position to inspect the outriggers, the chains from a load recently placed on the slab were being removed when the crane began sliding from the outrigger timbers. Once off the timbers, the outrigger ram sunk into the ground which was compacted soil. This caused the crane to topple over.

The rigger has received counselling and is currently working again.

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
11 February 2021	Improvement Notice	310745	Crane tipped over while performing lifts	Incident Cause Analysis Method (ICAM) Investigation conducted and provided to SafeWork SA on completion
11 February 2021	Prohibition Notice	308592	Use of the Crane	CSH087 is currently in for repairs with an ETA of October 2022
11 February 2021	Prohibition Notice	308593	Use of lifting chains involved in the incident	Lifting chains have been disposed of

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

Psychiatric injury was sustained by the crane operator. The operator has gained employment in another industry.

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 - Please provide details

☐ not applicable

Status:

The crane operator has made a claim for weekly payments and medical and like expenses pursuant to the *Return to Work Act 2014* (SA), which has been accepted.

The crane operator has decided to surrender his high risk license and has gained employment in an alternate industry.

Employers Mutual Limited (EML) along with Crane Services, have assisted the crane operator find alternative work.

The Injury Management Coordinator (HSEQ Manager) has been the primary contact for the crane operator since the incident occurred. The Injury Management Coordinator has met weekly since the incident until regular contact had ceased in mid 2021 at the worker's request.

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
11.02.2021	Welfare check on injured person by Injury Management Coordinator Keswick SA	It was identified early that it was extremely important to meet with the operator. The operator was shutting himself off to anyone including his family. The Coordinator went to his residence and offered support to both the operator and his wife. Access to EAP support offered as well as through Employers Mutual Limited
11.02.2021	Income continued to be paid, prior to Return to Work SA Claim Submission	
12.02.2021	Ongoing psychiatrist appointments for the Crane Operator	This is still ongoing and commence the day of the incident and is supported through the company
19.02.2021	Weekly informal meetings with the Operator with the Injury Management Coordinator, as per the advice of the psychiatrist to maintain trust and a link for the operator with the workplace	This eased off to monthly from July, as per the advice of the psychiatrist and Operators wishes.
11.03.2021	Return to Work SA Claim accepted, with full medical and income support	Support offered for training for redeployment in an alternative industry
10/08/2022	Ongoing support from Return to Work SA and Employers Mutual Limited	Advised that operator has gained paid employment in another field and is no longer seeking psychiatric support for his compensable injury

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

Crane Services is a certified organisation to international standard ISO45001 Safety Management Systems. The organisation has been certified since October 2014 to AS/NZS 4801 and in October 2020 obtained an upgrade in certification to ISO45001. WHS is the responsibility of all employees with every employee given the authority to

stop work if something is unsafe and report all hazards, near misses and incidents. WHS is rolled out through all levels of the business through management meetings, supervisor meetings, tool boxes and comms that are texted and emailed to individual employees.

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

Crane Services undertakes an internal management system audit annually. The system is audited by TQCSI Yaran for re-certification every 3 years and a surveillance audit every year.

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

The Enforceable Undertaking has been discussed at the Operational Management Meeting with directors and senior management team of Crane Services for input and endorsement.

Toolbox meetings with employees were held in March 2021, once the ICAM Investigation was completed to:

- communicate the incident and findings to workers
- what actions have been taken to date and what will occur moving forward
- discussion with the operational team and crane crew after authority from the crane operator, his condition and expected recovery
- discuss what an Enforceable Undertaking entails and what we as an organisation will do

The proposed actions of the EU were discussed with the crane operator involved in the incident. He would like to see input regarding investment in mental health.

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

1. Crane Services Lift Plan Diagram and Safe Work Method Statement has been updated to include additional administrative controls to address changes to site conditions. These additional administrative controls have been communicated to the crane crew through Tool box talks. \$1,000
2. Implementation of a change management process for changes in site conditions and set up, which includes the site plan and Safe Work Method Statement and make amendments to these documents accordingly \$200
3. Implementation of a Site job Inspection Form. \$200
4. Disposal and replacement of lifting chains \$5,000

5. ICAM Investigation conducted and distributed \$6000

Total amount spent on rectifications \$ \$12,400

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

Whilst no formal contravention of the Work Health and Safety Act, 2012 (SA) has been alleged, the Company understands the characterisation of potential allegations as referred to in paragraph 1.2.

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

The Company sincerely regrets that the incident on 11 February 2021 occurred and expressed its sympathy to the crane operator.

The Company considers that this undertaking is a more appropriate response to the alleged contravention than a court imposed sanction as it affords the company with the opportunity to not only to review its own processes and procedures in respect of crane set up, but also provide it with the opportunity to share what it has learnt with other PCBU's in the industry, with particular regard to other PCBUs mitigating risks relating to site conditions and appropriately mitigating the risks, and safely recovering a crane in these circumstances.

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

The Company is committed to addressing all factors which caused or led to the alleged contravention and this has included taking the following steps:

- Hire additional people to ensure an oversight on site conditions including the creation of a new compliance officer position
- Additional administrative controls as stated earlier in this document

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: June 2018

2.5 Acknowledgement that this undertaking may be published and publicised

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

2.5.2 The Company acknowledges that the undertaking may be publicised in electronic and/or print media.

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 The Company has the financial ability to comply with the terms of this undertaking and have provided evidence which, by way of letter, will be provided by the external accounting firm Tilbrook Rasheed with this undertaking to support this declaration.

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

2.7 Statement regarding the 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

The Company confirms that there are no relationships with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarships or other recipients of financial benefit contained in this undertaking.

2.8 Statement regarding Intellectual Property Licence

The Company 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.

2.10.4 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.

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 Company is committed to discharging its obligations under the Act and this commitment is reinforced by the undertakings made within this document.

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

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

The Company is committed to promoting the benefits contained in this undertaking and to the undertaking itself. In particular the Company is committed to sharing the techniques it has developed for the safe recovery of a crane with other PCBU's and organisations in the industry.

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)

(This may include dissemination to work health and safety representatives and in the annual report, if applicable)

Dissemination will be achieved by doing the following:

- Toolbox meetings
- Available on Safety Notice Boards
- Consultative Committee Meetings

Dissemination will occur within a month of Enforceable Undertaking coming into affect

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

Activities		Minimum cost	Timeframe
3.2.1	Introduction of compliance officer position to assist with onsite compliance and management of administrative controls	\$ 86,796 annually	By October 2021
3.2.2	Training for supervisors and administration in WHS and front line management	\$35,000	Ongoing to be completed by end 2023

3.2.3	Introduction of cloud based WHS management system 'Donesafe' to digitise record keeping system, incident, near miss and hazard reporting, corrective actions, inductions, crane compliance information, Humans resources and document control	\$80,550	Within 12 months of EU taking effect
3.2.4	Engage a third party consultant to conduct internal audit our WHS management system in addition to 3 rd party certifying body	\$20,400	Annual 3 rd party audit and monthly review of system to be engaged within 12 months of EU taking effect
3.2.5	Crane Services will implement a GPS tracking and vehicle immobilisation system with driver ID tags to our cranes and equipment. This will enable all equipment to be tracked in live time. This will also work in conjunction with our VOF program as only operators that have been signed off as competent will be able to start vehicles. This system has been looked on favourably by our insurance underwriters in reducing our risk profile.	\$71,800 + \$10,800 ongoing annual subscription	GPS Lockout devices to be fitted to fleet within 12 months of EU taking effect

3.2.6	Engage Keain Tech and GeoTech consulting engineer to develop a training and information session for crane supervisors on Geotechnical ground conditions	\$6,500	With 12 months of EU taking effect
Total minimum cost of benefits for workers/others		\$ 301,046	

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	Master Builders – Workshop on the Rollover Incident ICAM to provide learnings with other PCBU's on mitigating risks relating to site conditions and Recovery process – 2hr workshop plus preparation and logistics	\$ 10,000	Within 12 months of the EU taking effect
3.3.2	MATES In Construction – sponsor a Suicide Prevention Program - ASIST	\$ 5,000	Within 12 months of the EU taking effect
3.3.3	Develop an animation video based on incident and ICAM findings to share learning with industry	\$10,000	Within 24 months of EU taking effect
3.3.4	Engage Keain Tech and GeoTech consulting engineer to present training session to Crane Industry Council of Australia (CICA) on	\$6,500	With 12 months of EU taking effect

	ground conditions and industry best practice.		
Total minimum cost of benefits for industry		\$31,500	

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	Beyond Blue Donation – focus on mens mental health	\$10,000	Within 12 months of the EU taking affect
3.4.2	Participate in Cranes for a cause charity event supporting Walk with Wings charity	\$ 5,145	Event scheduled for Feb 2023
Total minimum cost of benefits for the community		\$15,145	

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	\$ 3,570

3.6 Minimum spend

3.6.1 The Company 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	\$ 301,046
Benefits to industry	\$ 31,500

Benefits to community	\$ 15,145
Regulator costs	\$ 3,570
Estimated total minimum spend for the undertaking	\$ 351,261

3.6.2 The Company 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)

The Company is committed to maintaining a Work Health Safety Management System compliant with the Act and make continual improvement to the system.

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

TQCSI Yaran will be engaged to conduct a surveillance audit and the requirements of the EU and ICAM will be included as part of the audit scope.

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

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]

[Print name]

[Position]

Dated at _____ this _____ day of _____

OR

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

Signed: 

[Duly Authorised Person]

Andrew Munckton
[Print name]

General Manager
[Position]

Dated at Wingfield this 18th day of January 2023

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]

Glenn Farrell

[Print name]

A/Executive Director

[Position]

Dated at Keswick SA this 24th day of January 2023



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