**Enforceable Undertaking application form**

Enforceable undertakings are voluntary and legally binding agreements between the EPA and a party (‘you’). The benefit of enforceable undertakings is that they are an efficient, flexible and transparent tool. They allow the EPA to obtain a set of fit-for-purpose commitments that address specific issues in response to an alleged breach. Enforceable undertakings are a more serious regulatory response than issuing a penalty notice but less serious than prosecution.

The EPA has an administrative power to accept enforceable undertakings under section 253A of the *Protection of the Environment Operations Act 1997* (POEO Act).

By submitting this form you are inviting the EPA to consider an enforceable undertaking with you.

To complete this form you need the *Guidelines on Enforceable Undertakings* which are available on the [EPA website](http://www.epa.nsw.gov.au/). The Guidelines include detailed information on when the EPA is likely to accept an enforceable undertaking, what an enforceable undertaking must address, details on the process for proposing an enforceable undertaking and timeframes for the process.

Your application must provide comprehensive information on your proposal so that the EPA can assess if your proposal meets the policy objectives and requirements set out in the Guidelines. The EPA encourages you to consult with your nearest EPA office before submitting your application.

If you need help filling out this form, please contact your nearest EPA office. Contact details are provided on the last page of the form.

Once completed and signed, please send your application to your nearest EPA office.

1. General information

| **Nameindividual or authorised contact person (if applicant is a company)** |       |
| --- | --- |
| **Company name** |       |
| **Residential or Registered company address** **(not a post office box)** |       |
| **Postal address (if different from above)** |       |
| **Phone** |       |
| **Email** |       |
| **ACN** |       |
| **Environment Protection Licence Number (if applicable)** |       |

# 2. Alleged breach

Provide a brief outline of the facts of the alleged breach.

| Name of EPA officer/regional office dealing with alleged breach |
| --- |
|       |
| Date EPA was notified about alleged breach | EPA officer/branch originally notified about alleged breach |
|       |       |
| Date and time of alleged breach |
|       |
| Details of primary premises affected by the alleged breach (i.e. address and Lot and DP, environment protection licence number if applicable) |
|       |
| Details of any other premises or areas affected by the alleged breach (i.e. address and Lot and DP; name and contact details of owners; names of watercourses) |
|       |
| Brief outline of alleged breach (i.e. nature of incident; cause of incident; pollutants involved; potential or actual impact on environment, community and/or human health; nature and extent of your responsibility for the alleged breach) [Maximum – ¼ page] |
|       |

# 3. Undertakings

For any projects listed in Sections 3.1 – 3.3 below please provide in an attachment a detailed outline of the project and budget, including breakdowns for each phase of the project. In this attachment, make clear any commitments which will be tax deductible for you.

Under section 253A of the *Protection of the Environment Operations Act 1997* (POEO Act), the applicant proposes the following undertakings:

## 3.1. Undertaking to drive improvements in environmental performance

Provide details of all activities proposed to drive improvements in environmental performance.

| **Activities** | **Indicative cost** | **Timeframe** |
| --- | --- | --- |
| 3.1.1 |       |       |       |
|  |
| 3.1.2 |       |       |       |
| **TOTAL estimated cost**  |       |

## 3.2. Undertaking to deliver benefits to the local environment and/or community

Provide details of all activities proposed to deliver benefits to the local environment and/or community. If you consider no such activities are required please provide detailed reasons for this in the box below.

| Activities | Indicative cost | Timeframe |
| --- | --- | --- |
| 3.2.1 |       |       |       |
|  |
| 3.2.2 |       |       |       |
| **TOTAL estimated cost**  |       |

Or

| Detailed reasons why no undertakings of this nature are proposed |
| --- |
|       |

## 3.3. Undertaking to drive improvements in environmental performance industry-wide

Provide details of all activities proposed to drive improvements in environmental performance industry-wide. If you consider no such activities are required please provide detailed reasons for this in the box below.

| Activities | Indicative cost | Timeframe |
| --- | --- | --- |
| 3.3.1 |       |       |       |
|  |
| 3.3.2 |       |       |       |

Or

| Detailed reasons why no undertakings of this nature are proposed |
| --- |
|       |

# 4. Acknowledgments

Please tick (🗸) Yes or No

Do you acknowledge:

|  |  | **Yes** | **No** |
| --- | --- | --- | --- |
| 4.1 | You are making a genuine commitment to address the alleged breach and where necessary this includes making a positive commitment to address the EPA’s concern about the alleged breach? | [ ]  | [ ]  |
|  |
| 4.2 | The EPA:* + - 1. may issue a media release on execution of the undertaking referring to its terms and to the concerns of the EPA which led to its execution; and
			2. may from time to time publicly refer to this undertaking; and
			3. will place a copy of the executed undertaking on the public register it maintains under the POEO Act?
 | [ ]  | [ ]  |
|  |
| 4.3 | The undertaking will not affect the EPA’s power to investigate a contravention arising from future conduct or to pursue a criminal prosecution in respect of future conduct, or to lay charges or exercise other civil or regulatory powers under the POEO Act? | [ ]  | [ ]  |
|  |  |  |  |
| 4.4 | The undertaking will not affect the rights or remedies available to any other person or entity nor will it affect any statutory obligation under the POEO Act? | [ ]  | [ ]  |
|  |
| 4.5 | Any of your communications referring to the projects you complete as part of this undertaking must link the project to this undertaking and state that it was entered into as a result of the alleged breach? | [ ]  | [ ]  |
|  |
| 4.6 | The proposed projects in the undertaking do not include any pre-existing expenditure commitments? | [ ]  | [ ]  |
|  |
| 4.7 | The undertaking will include a commitment to:* + - 1. pay the EPA’s reasonable legal costs in preparation of the undertaking; and
			2. pay the EPA’s reasonable investigation costs of the incident; and
			3. pay the EPA’s reasonable costs of monitoring compliance with the agreement?
 | [ ]  | [ ]  |
|  |  |  |  |
| 4.8 | You have read and understand the EPA’s published Guidelines on Enforceable Undertakings? | [ ]  | [ ]  |
|  |  |  |  |
| 4.9 | The agreement will contain terms specifically outlining how commitments under the agreement will be met and monitored? | [ ]  | [ ]  |
|  |  |  |  |
| 4.10 | No expenditure commitments you have made in Section 3 can be claimed as tax deductions by your operation?  | [ ]  | [ ]  |

# 5. Probity

# State any relationships with any corporation, officers, employees, contractors, proposed beneficiaries or other recipients of financial benefit contained in this proposal:

| Details of activity/financial benefit | Details of relationship |
| --- | --- |
|       |       |
|       |       |
|       |       |
|       |       |

# 6. Signature of applicant

The ways in which the application may be signed, and the people who may sign the application, are set out in the categories below.

Please tick (✓) the box next to the category that describes how this application will be signed.

|  |  |  |
| --- | --- | --- |
| If the applicant party is: |  | The application must be signed and certified by one of the following: |
| An individual  | [ ]  | The individual |
| A company | [ ]  | A person authorised to submit the application on behalf of the company |
| A public authority other than a council | [ ]  | A person delegated to submit the application on the public authority’s behalf in accordance with its legislation (Please note: a copy of the relevant instrument of delegation must be attached to this application) |
| A local council | [ ]  | A person authorised to submit the application on the local council’s behalf |

**I/We (the applicant party):**

* **apply for an enforceable undertaking**
* **declare that the information in this application form (including any attachment) is not false or misleading in any material particular**

|  |  |  |  |
| --- | --- | --- | --- |
| Signature |       | Signature |       |
| Name (printed) |       | Name (printed) |       |
| Position |       | Position |       |
| Date |       | Date |       |

**Send this form to your nearest EPA office.**

|  |  |
| --- | --- |
| **Metropolitan** ParramattaEnvironment Protection Authority NSWPO Box 668 Parramatta NSW 2124Phone: 9995 5000Fax: 9995 6900metro.regulation@epa.nsw.gov.au  | **Wollongong**Environment Protection Authority NSWPO Box 513Wollongong East NSW 2520Phone: 4224 4100Fax: 4224 4110epa.illawarra@epa.nsw.gov.au  |
| **North** **Newcastle**Environment Protection Authority NSWPO Box 488GNewcastle NSW 2300Phone: 4908 6800Fax: 4908 6810hunter.region@epa.nsw.gov.au | **Grafton**Environment Protection Authority NSWPO Box 498Grafton NSW 2460Phone: 6640 2500Fax: 6642 7743north.coast@epa.nsw.gov.au  |
| **Armidale**Environment Protection Authority NSWPO Box 494Armidale NSW 2350Phone: 6773 7000Fax: 6772 2336armidale@epa.nsw.gov.au  |  |
| **South****Albury**Environment Protection Authority NSWPO Box 544Albury NSW 2640Phone: 6022 0600Fax: 6022 0610southwest.region@epa.nsw.gov.au **Dubbo**Environment Protection Authority NSWPO Box 2111Dubbo NSW 2830Phone: 6883 5330Fax: 6884 8675epa.farwest@epa.nsw.gov.au gas.reg@epa.nsw.gov.au QueanbeyanEnvironment Protection Authority NSWPO Box 622Queanbeyan NSW 2620Phone: 6122 3100Fax: 6299 3525queanbeyan.region@epa.nsw.gov.au | BathurstEnvironment Protection Authority NSWPO Box 1388Bathurst NSW 2795Phone: 6332 7600Fax: 6332 7630central.west@epa.nsw.gov.au GriffithEnvironment Protection Authority NSWPO Box 397Griffith NSW 2680Phone: 6969 0700Fax: 6969 0710southwest.region@epa.nsw.gov.au  |
| **Waste Operations**Environment Protection Authority NSWPO Box A290Sydney South NSW 1232Phone: 9995 5000Fax: 9995 5930waste.operations@epa.nsw.gov.au  | **Hazardous Incidents & Environmental Health**Environment Protection Authority NSWPO Box A290Sydney South NSW 1232Phone: 9995 5000Fax: 9995 5930hieh.coordination@epa.nsw.gov.au  |

Environment Protection Authority, 59 Goulburn Street, Sydney South NSW 2000. Phone: 131 555 (environment information and publications requests); email: info@environment.nsw.gov.au; Website: www.epa.nsw.gov.au. EPA 2016/0683; February 2017.