# Enforceable Undertaking proposal for the EPA

This proposal is your invitation to the EPA to consider an enforceable undertaking with you, as an alternative regulatory response to prosecution.

***Note:*** *High-quality proposals received by the EPA, that include as much detailed information as possible, are likely to reduce the length of subsequent negotiations.*

*Refer to the EPA ‘Guidelines on Enforceable Undertakings’ to complete this form. You are encouraged to meet with your nearest EPA office to assist you to prepare your proposal. Contact details are provided at the end of this form.*

# Your details

|  |  |
| --- | --- |
| **Full name (authorised individual)** |  |
| **Company name** |  |
| **Australian Company Number (ACN)** |  |
| **Address (residential or registered company; not a post office box)** |  |
| **Postal address  (if different from above)** |  |
| **Phone** |  |
| **Email** |  |
| **Environment Protection Licence Number (if applicable)** |  |

# Alleged breach or issue

*Outline what is known about the alleged breach or issue. Explaining the alleged breach or issue assists in our consideration of your proposal and whether an enforceable undertaking is an appropriate regulatory response.*

|  |  |
| --- | --- |
| **Name of EPA officer and regional office managing the alleged breach or issue** | |
|  | |
| **Date and time of the alleged breach or issue** | |
|  | |
| Date the EPA was notified of the alleged breach or issue | EPA officer / branch originally notified about alleged breach or issue |
|  |  |
| Details of primary premises affected by the alleged breach or issue  *e.g. address, Lot and DP, Environment Protection Licence Number (if applicable)* | |
|  | |
| Details of any other premises or areas affected by the alleged breach or issue  *e.g. address, Lot and DP, name and contact details of owners; names of watercourses* | |
|  | |
| Brief outline of the alleged breach or issue  *e.g. nature and cause of the 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 700 words]* | |
|  | |

# Your proposed undertakings

To be considered, please address all criteria below and include strategies that deliver tangible, long-term and measurable outcomes for the benefit of the environment and community.

*For any project(s) that you list in Sections 3.1 to 3.3 below, please include a detailed outline of the project and budget, including breakdowns for each phase of the project, as an attachment(s).The attachment(s) must also include any commitments that will be tax deductible for you*.

* 1. **Undertaking to drive improvements in environmental performance**

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

*For each activity, provide details on all relevant fields listed in the checkboxes below. If helpful, tick the relevant checkboxes when you review your proposal before submission:*

*Objectives*

*Anticipated outcomes*

*Scope*

Resources

*Risks*

*Proposed methodology*

*Evaluation and monitoring*

*Approvals/ authorisations needed*

|  |  |  |  |
| --- | --- | --- | --- |
| Detailed Activities *[50 to 300 words per activity suggested]* | | Estimated cost | Proposed timeframe |
| 3.1.1 |  |  |  |
|  | | | |
| 3.1.2 |  |  |  |
| TOTAL estimated cost | |  | |

* 1. **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.*

*Included in proposal:*

*Objectives*

*Anticipated outcomes*

*Scope*

Resources

*Risks*

*Proposed methodology*

*Evaluation and monitoring*

*Approvals/ authorisations needed*

|  |  |  |  |
| --- | --- | --- | --- |
| Detailed Activities *[50 to 300 words per activity suggested]* | | Estimated cost | Proposed timeframe |
| 3.2.1 |  |  |  |
|  | | | |
| 3.2.2 |  |  |  |
| TOTAL estimated cost | |  | |

* 1. **Undertaking to drive improvements in environmental performance industry-wide**

*Provide details of all activities proposed to drive improvements in environmental industry-wide.*

*Included in proposal:*

*Objectives*

*Anticipated outcomes*

*Scope*

Resources

*Risks*

*Proposed methodology*

*Evaluation and monitoring*

*Approvals/ authorisations needed*

|  |  |  |  |
| --- | --- | --- | --- |
| Detailed Activities *[50 to 300 words per activity suggested]* | | Estimated cost | Proposed timeframe |
| 3.3.1 |  |  |  |
|  | | | |
| 3.3.2 |  |  |  |
| TOTAL estimated cost | |  | |

# Acknowledgements

***Note:*** *Your proposal will be considered with reference to the Guidelines on Enforceable Undertakings. The EPA is not compelled to accept any enforceable undertaking proposals. Please ensure sufficient detail has been included to allow the EPA to consider your proposal.*

Please tick () **Yes** or **No** to acknowledge that:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | Yes | No |
|  |  |  |  |
| 4.1 | The undertaking will include a condition that you take responsibility for the alleged breach or issue |  |  |
|  |  |  |  |
| 4.2 | The undertaking will include a positive commitment to stop the activity of concern and not recommence that activity, as well as detailing how you will address your responsibility for the alleged breach or issue and rectify the consequences |  |  |
|  |  |  |  |
| 4.3 | Enforceable undertakings are public and 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;       2. may publicly refer to this undertaking at times; and       3. will place a copy of the executed undertaking on the public register it maintains under the POEO Act |  |  |
|  |  |  |  |
| 4.4 | The undertaking will not affect the EPA’s power to investigate a contravention arising from your future activity, or to pursue a criminal prosecution, or civil remedies, or use other regulatory powers under relevant environmental legislation for that activity in the future |  |  |
|  |  |  |  |
| 4.5 | 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 |  |  |
|  |  |  |  |
| 4.6 | Any of your communications referring to the projects delivered 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 or issue |  |  |
|  |  |  |  |
| 4.7 | The proposed projects in the undertaking do not include any expenditure commitments that were pre-existing or budgeted for prior to the undertaking |  |  |
|  |  |  |  |
| 4.8 | The undertaking has no operative force until formally accepted by the Chief Executive Officer of the EPA |  |  |
|  |  |  |  |
| 4.9 | The undertaking may only be varied with the EPA’s agreement, the form of a Deed of Variation, and in accordance with the POEO Act |  |  |
|  |  |  |  |
| 4.10 | The undertaking will remain in force until completed or withdrawn in accordance with the POEO Act |  |  |
|  |  |  |  |
| 4.11 | The EPA will take into account an Enforceable Undertaking in future regulatory matters under environmental legislation |  |  |
|  |  |  |  |
| 4.12 | The undertaking will include a commitment to pay the EPA’s reasonable costs in:   * + - 1. investigating the alleged breach or issue       2. commencing and progressing the matter in Court if proceedings are commenced and then subsequently withdrawn following acceptance of the undertaking; and       3. negotiating and finalising the agreement; and       4. monitoring compliance with the agreement |  |  |
|  |  |  |  |
| 4.13 | You have read and understand the EPA’s published Guidelines on Enforceable Undertakings |  |  |
|  |  |  |  |
| 4.14 | The agreement will contain terms specifically outlining how commitments under the agreement will be met and monitored |  |  |
|  |  |  |  |
| 4.15 | Expenditure commitments you have made in Section 3 **cannot** be claimed as tax deductions by your operation. |  |  |

# Probity

In the table below, 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** |
|  |  |
|  |  |
|  |  |
|  |  |

# Declaration

Please tick (✓) the box next to the relevant proponent who must sign the declaration below.

|  |  |  |
| --- | --- | --- |
| If the proponent is: | ✓ | Then this proposal must be signed and certified by: |
| An individual |  | The individual |
| A company |  | A person authorised to submit the proposal 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 undersigned proponent):***

* ***propose this Enforceable Undertaking to the EPA to consider; and***
* ***declare that the information provided in this proposal (including any attachments) is not false or misleading in any way.***

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

***How to submit your proposal***

* Email this proposal and any attachments to **info@epa.nsw.gov.au** or
* Submit to your nearest EPA office listed below.

|  |  |
| --- | --- |
| **Metropolitan** *Parramatta*  Environment Protection Authority NSW  Locked Bag 5022  Parramatta NSW 2124  Phone: 02 9995 5000 | **Wollongong** Environment Protection Authority NSW  PO Box 513  Wollongong NSW 2520  Phone: 02 9995 5000 |
| **North** **Newcastle** Environment Protection Authority NSW  PO Box 488G  Newcastle NSW 2300  Phone: 02 4908 6800 | **Grafton** Environment Protection Authority NSW  PO Box 498  Grafton NSW 2460  Phone: 02 6640 2500 |
| **Armidale** Environment Protection Authority NSW  PO Box 494  Armidale NSW 2350  Phone: 02 6773 7000 |  |
| **South** ***Albury***  Environment Protection Authority NSW  620 Macauley Street  Albury NSW 2640  Phone: 02 6022 0600  ***Dubbo***  Environment Protection Authority NSW  PO Box 2111  Dubbo NSW 2830  Phone: 02 6883 5333  ***Queanbeyan***  Environment Protection Authority NSW  PO Box 622  Queanbeyan NSW 2620  Phone: 02 6229 7002 | ***Bathurst***  Environment Protection Authority NSW  PO Box 1388  Bathurst NSW 2795  Phone: 02 6333 3800  ***Griffith***  Environment Protection Authority NSW  PO Box 397  Griffith NSW 2680  Phone: 02 6969 0700 |