*Environmental Protection Act 1994*

# Enforceable Undertaking

This form must be used to submit a proposed enforceable undertaking to the Department of Environment, Science and Innovation (the department) pursuant to Chapter 10, Part 5 of the Environmental Protection Act 1994 (the Act).

For further information please refer to the Enforceable Undertakings Statutory Guideline (ESR/2016/2272).

Once a decision on the application is made, the department will issue a notice informing the applicant if the enforceable undertaking is accepted or rejected. If the department decides to accept the enforceable undertaking, the decision notice will be issued with the enforceable undertaking in the approved form to be signed by the Applicant and the department. The contents of this application will be used to draft the enforceable undertaking.

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| ENFORCEABLE UNDERTAKING |

The objectives in this proposal for an undertaking are submitted to the department for consideration by: <INSERT person/entity name and ACN> <INSERT (the person) OR (the corporation)>.

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| COMMENCEMENT OF UNDERTAKING  |

An enforceable undertaking commences on the date that the department signs the <INSERT person's OR corporation's> enforceable undertaking. Upon the enforceable undertaking taking effect, the enforceable undertaking commences as a legally binding agreement between the department and the applicant.

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| SECTION 1: GENERAL INFORMATION  |

1. **Details of the applicant proposing an enforceable undertaking**

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| NAME – INDIVIDUAL OR AUTHORISED CONTACT PERSON (if applicant is a company)Click or tap here to enter text. |
| COMPANY NAME Click or tap here to enter text. | ACN (if relevant)Click or tap here to enter text. |
| RESIDENTIAL OR REGISTERED COMPANY ADDRESS (not a post office box)Click or tap here to enter text. | PHONEClick or tap here to enter text. |
| POSTAL ADDRESS (if different from above)Click or tap here to enter text. | FACSIMILEClick or tap here to enter text. |
| EMAILClick or tap here to enter text. |
| ENVIRONMENTAL AUTHORITY PERMIT NUMBER (relevant to this enforceable undertaking, if applicable) Click or tap here to enter text. | SUITABLE OPERATOR NUMBER (if applicable)Click or tap here to enter text. |
| ENVIRONMENTAL AUTHORITY HOLDER’S NAME (relevant to this enforceable undertaking, if applicable)Click or tap here to enter text. |
| ACTIVITY DETAILS (if no relevant environmental authority)Click or tap here to enter text. |

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| SECTION 2: ALLEGED CONTRAVENTION  |

* 1. **Detail the alleged contravention** (press ‘enter’ at the end of each statement to create a new row):
		1. <For example: details from departmental correspondence>
		2. <For example: details of the offence(s) alleged to have been breached including date, time, place and who was involved>
		3. <Enter details>
	2. **Detail the conduct or events surrounding the alleged contravention** (press ‘enter’ at the end of each

statement to create a new row):

* + 1. <For example: this must include factual details, and avoid blame or opinions>
		2. <Enter details>
		3. <Enter details>
	1. **Description of any land affected by the alleged contravention (including land on which the alleged contravention occurred and any impacted land):**

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| LOCATION OF LAND (E.G. STREET ADDRESS OR GEOGRAPHICAL COORDINATES)Click or tap here to enter text. |
| LOT PLANClick or tap here to enter text. | WHOLE/PARTClick or tap here to enter text. |
| TENURESClick or tap here to enter text. |

* 1. **Landowner/landholder details** (if location of contravention is not a site owned or leased by the applicant or the person/company they are representing)

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| LANDOWNER/LANDHOLDER NAME(S)Click or tap here to enter text. |
| CONTACT PERSON’S NAMEClick or tap here to enter text. |

* 1. **Detail the environmental harm (including potential harm) as a consequence of the alleged contravention detailed at section 2** (press ‘enter’ at the end of each statement to create a new row):
		1. <For example: contamination of waterways rendering the water unsafe for animal consumption>
		2. <Enter details>
	2. **Detail the consultation undertaken in relation to this proposed enforceable undertaking** (press ‘enter’ at the end of each statement to create a new row):
		1. <For example: Engagement with conservation groups on the extent of the impact on the affected environment, and mechanisms for improvement>
		2. <For example: details of any communication with departmental officers>

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| SECTION 3: ACKNOWLEDGMENTS AND STATEMENTS |

* 1. **Acknowledgement that an alleged contravention occurred, as detailed in section 2:**

<Enter statement here>

* 1. **Statement of regret that the alleged contravention occurred:**

<Enter statement here>

* 1. **Statement of reasons why the person considers an enforceable undertaking is a more appropriate response to the alleged contravention than a court imposed sanction:**

<Enter statement here>

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

<Enter statement here>

* 1. **Statement of any action that has been undertaken to prevent the alleged contravention:**

<Enter statement here>

* 1. **Acknowledgment of the guideline published by the department for the acceptance of an enforceable undertaking:**

I have read and understood:

Guideline: Enforceable undertakings under the Environmental Protection Act 1994 (ESR/2016/2272)

Dated: <Enter date>

* 1. **Acknowledgment that an enforceable undertaking will be published on the department’s website and may be publicised elsewhere:**

<INSERT person> acknowledges that:

* + 1. This undertaking will be published on the department’s website and may be referred to or referenced in other ways (including in newspapers or media releases).
	1. **Acknowledgment that proceedings will be brought against the person for the contraventions of an enforceable undertaking:**

<INSERT person> acknowledges that:

* + 1. As provided for in section 508(2) of the Act, the department’s acceptance of an undertaking means that proceedings will not be brought by the department against the person for the contraventions alleged in section 2 of this proposal, as long as the person subject to the relevant enforceable undertaking is fully complying, or has fully complied, with the undertaking.
		2. If the person withdraws an undertaking before it has been fulfilled, proceedings may be brought for the offences constituted by the contraventions alleged in section 2 of this proposal for an undertaking.
		3. The department’s acceptance of this proposal for an undertaking does not affect the department’s power to:
			1. bring proceedings against the person;
			2. issue penalty infringement notices; or
			3. take any other enforcement action against the person;

in relation to any subsequent contravention or alleged contravention of the Act, that is not the subject of an undertaking. This is regardless of whether or not the subsequent contravention or alleged contravention involves a provision of the Act that is referred to in section 2 of this proposal.

* 1. **Acknowledgment that this proposal for an undertaking does not derogate from other rights and remedies:**

<INSERT person> acknowledges that this proposal for an undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this proposal or arising from subsequent conduct.

* 1. **Acknowledgment that an enforceable undertaking has been offered to the department:**

<INSERT person> acknowledges that:

* + 1. They have offered an undertaking in the terms set out in this approved form.
		2. This proposed undertaking does not take effect until the department gives the person who made the proposal for an undertaking notice of the decision to accept the proposal on terms satisfactory to the department. The person and the department acknowledge that the date of the undertaking is the date on which the notice of the decision to accept the undertaking is given.
	1. **Statement of the person’s ability to comply with the terms of any undertaking and meet the projected costs of the activities:**
		1. <INSERT person> has the financial ability to comply with the terms proposed for the undertaking and have provided evidence by way of <INSERT type of evidence provided> with this application to support this declaration.
		2. In the event of impending liquidation or sale of the entity, <INSERT person> will advise the department of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.
		3. In the event that the entity is sold, <INSERT person> will advise any future owners or operators of the existence of this undertaking, and provide a copy of this correspondence to the department.
	2. **Statement of relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this proposal:**

Note: If a financial benefit is to be given to a person any relationship between the applicant for the enforceable undertaking and the person receiving the financial benefit must be disclosed here.

* 1. **Acknowledgment that communications regarding this enforceable undertaking must state that an enforceable undertaking is in effect:**

<INSERT person> acknowledges that any public communications regarding any of the actions contained within this undertaking must clearly link the actions to the undertaking and state that the undertaking was entered into as a result of a contravention or alleged contravention of the Act.

* 1. **Acknowledgment that the person may be required to provide a statutory declaration:**

The department has requested a statutory declaration outlining details of any prior convictions or findings of guilt under the Environmental Protection Act 1994 or a corresponding law[[1]](#footnote-2) whether in Queensland or elsewhere:

[ ] YES [ ]  NO

The statutory declaration is attached (if applicable):

[ ]  YES [ ]  NO

* 1. **Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking:**
		1. It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.
		2. Evidence to demonstrate compliance with the terms will be provided to the department within two business days after the due date.
		3. The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by the department that this undertaking has been completely discharged.
		4. It is acknowledged that any failure to meet the due date for a term will result in the matter being escalated and may lead to enforcement action.
		5. It is acknowledged that the department may undertake other compliance monitoring activities to verify the evidence and compliance with a term, and the applicant agrees to cooperate with the department in any investigation or compliance activity in respect of the enforceable undertaking such as site access and provision of documents upon reasonable notice.

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| SECTION 4: KEY OBJECTIVES |

1. **This enforceable undertaking is a binding agreement that aims to** (press ‘enter’ at the end of each statement to create a new row)**:**
	1. <<INSERT key objectives of this undertaking. For example: Improve environmental performance>>
	2. <<For example: Deliver benefits to the environmental and local community>>
	3. <<For example: Drive improvements in environmental performance across industry>>

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| SECTION 5: TERMS |

* 1. **<<INSERT terms of this undertaking. For example: Ongoing effective management of risks to the environment>>**
		1. <<For example: A commitment by the person to ensure the ongoing effective management of risks to the environment in future conduct of its business or undertaking. It should be detailed how this would be done.>>
	2. **<<For example: Deliver benefits for the environment>>**
		1. <<For example: Activities to be undertaken to promote the objects of the Environmental Protection Act 1994 that will deliver benefits to the environment.>>

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| **ACTIVITIES**  | **COST** | **TIMEFRAME** |
| <<5.2.1.1>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.2.1.2>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.2.1.3>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.2.1.4>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |

 **(press tab at the end of the last row to create new rows)**

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| **Total estimated cost of benefits for the environment** $<<INSERT Cost>> |

* 1. **<<For example: Deliver benefits for industry>>**
		1. <<For example: Activities to be undertaken to promote the objects of the Environmental Protection Act 1994 that will deliver benefits for industry.>>

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| **ACTIVITIES**  | **COST** | **TIMEFRAME** |
| <<5.3.1.1>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.3.1.2>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.3.1.3>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |

**(press tab at the end of the last row to create new rows)**

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| **Total estimated cost of benefits for the environment** $<<INSERT Cost>> |

* 1. **<<For example: Deliver benefits for the community>>**
		1. <<For example: Activities to be undertaken to promote the objects of the Environmental Protection Act 1994 that will deliver benefits for the community.>>

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| **ACTIVITIES**  | **COST** | **TIMEFRAME** |
| <<5.4.1.1>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.4.1.2>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |
| <<5.4.1.3>> | <<INSERT Activity>> | $<<INSERT Cost>> | <<INSERT Timeframe>> |

**(press tab at the end of the last row to create new rows)**

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| **Total estimated cost of benefits for the environment** $<<INSERT Cost>> |

* 1. **<<For example: Costs>>**
		1. <<For example: Agreement to pay the department's recoverable costs>>

<INSERT person> agrees to pay the department’s costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the department’s invoice:

• Administrative costs $<<INSERT Cost>>

• Legal costs $<<INSERT Cost>>

• Compliance monitoring costs $<<INSERT Cost>>

• Publication costs $<<INSERT Cost>>

**Total recoverable costs**  $<<INSERT Cost>>

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| SECTION 6: CERTIFICATION |

As per section 481 of the Act it is an offence to state anything to an authorised person that you know is false or misleading in a material particular or omit from a statement made to an authorised person anything without which the statement is, to your knowledge, misleading in a material particular.

I declare that the information provided is true and correct.

INDIVIDUAL OR ENTITY NAME:

Click or tap here to enter text.

NAME and POSITION TITLE (if applicant is company)

Click or tap here to enter text.

SIGNATURE

If signing on behalf of company, by signing this application form I declare I am authorised to sign on behalf of this company:

DATE

Click or tap to enter a date.

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| FURTHER INFORMATION |

The latest version of the Enforceable Undertaking Guideline and other publications referenced in this document can be found at [www.des.qld.gov.au](http://www.des.qld.gov.au/) using the relevant publication number (ESR/2016/2272) as a search term.

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| DEFINITIONS |

Where there is inconsistency between the definition of terms here and the terms used in the Act, the terms in the Act apply.

**Act** means the Environmental Protection Act 1994

**Administering authority** is the Chief Executive of the Department of Environment and Science

**Authorised person** is generally an employee of the Department of Environment and Science who has been appointed as an authorised person under the Environmental Protection Act 1994

**Company** means the corporation proposing this enforceable undertaking

**Department** means the Department of Environment and Science

**Local affected community** means the residents of the impacted area the subject of this enforceable undertaking

**Non-compliance /contravene** means a breach or failure to comply with

**Person** means the individual/corporation (legal entity) proposing this enforceable undertaking

**Proceedings** means a legal or other action or proceeding

**Undertaking** means this enforceable undertaking made pursuant to Chapter 10, Part 5 of the Act

**Please return your completed enforceable undertaking to:**

**Post:**

Litigation Unit

Department of Environment, Science and Innovation

GPO Box 2454, BRISBANE QLD 4001

**Enquiries:**

Litigation Unit

Phone: 07 3330 5535

Email: litigation.unit@des.qld.gov.au

**Privacy statement**

The department is committed to protecting the privacy, accuracy and security of your personal information in accordance with the Information Privacy Act 2009. The department is collecting your personal information to determine whether to accept or reject your enforceable undertaking under section 507 of the Act. The information will only be accessed by authorised employees within the department and will not be given to any other person or agency unless you have given us permission or we are authorised or required by law. However, if your enforceable undertaking is accepted, the undertaking including your name, address and ABN/ACN will be publically available on the department’s website. This disclosure is authorised by section 507(5) of the Act. Additionally, the information supplied on this form may be disclosed publicly in accordance with the Right to Information Act 2009 and Evidence Act 1977. For queries about privacy matters email: privacy@des.qld.gov.au or telephone: 13 QGOV (13 74 68).

**Version history**

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| **Version** | **Effective date** | **Description of changes** |
| 1.00 | 3 October 2015 | Initial upload. |
| 2.00 | 21 July 2016 | The document template, header and footer have been updated to reflect current Queensland Government corporate identity requirements and comply with the Policy Register. |
| 2.01 | 12 June 2018 | The document template, header and footer have been updated to reflect current Queensland Government corporate identity requirements and comply with the Policy Register. |
| 2.02 | 5 April 2019 | Minor updates to correct unintended errors. |

1. Corresponding law means under a law of the Commonwealth or another State that provides for the same or similar matters as the *Environmental Protection Act 1994*. [↑](#footnote-ref-2)