



**Planning &  
Environment**  
Resources Regulator

## **WHS undertaking**

Undertaking to the Secretary,  
**Department of Planning and Environment**  
given for the purposes of Part 11 of the *Work Health and Safety Act 2011*

by

**Sibelco Australia Limited**

ACN 000 971 844

ABN 20 000 971 844

## WHS undertaking

### Purpose

The purpose of this WHS undertaking is to document the undertaking given to the regulator, the Secretary of the Department of Planning and Environment, for the purposes of Part 11 of the *Work Health and Safety Act 2011 (WHS Act)* in connection with a matter relating to a contravention or alleged contravention by the person of the WHS Act.

### Section A - general information

#### 1. details of the person proposing the undertaking

Name of person (company or individual)	Sibelco Australia Limited (Sibelco)
Registered address	Level 16, 111 Pacific Highway, North Sydney NSW 2060
Mailing address (if different from above)	Locked Bag 969, North Sydney NSW 2059
Telephone	[REDACTED]
Email address	[REDACTED]
Legal structure	Sibelco is a registered corporation and an Australian Public Company limited by shares.
Type of business	Sibelco is a raw materials company which sources, refines and supplies raw materials to a broad range of industries, as well as government, for use in producing industrial products, consumer goods, completing industrial processes, and in the provision of utilities and essential services.
Commencement date of the entity	19 January 1972
Workers	Full time: 776 (358 salaried and 418 hourly) Part time: Nil Other: 14
Products and services	Global raw material solutions.

#### 2. the details of the alleged contravention

It is alleged that on 1 February 2016, Sibelco, being a person conducting a business or undertaking at the Salt Ash Plant at 8 Oakvale Drive, Salt Ash, New South Wales (NSW), who had a health and safety duty under section 19(1) of the WHS Act to ensure, so far as is reasonably practicable, the health and safety of workers engaged by Sibelco, while they were at work in the business or undertaking, failed to comply with that duty, and that failure exposed a worker to a risk of death or serious injury, contrary to section 32 of the WHS Act.

#### 3. details of the events surrounding the alleged contravention, e.g. incident details

At approximately 12:57 pm on 1 February 2016, a worker employed by Sibelco at its Salt Ash Sand Plant site fell approximately 2.7 metres from the platform of an articulated dump truck (ADT) and suffered serious head injuries (Incident). The ADT was on a low loader road transport truck and was being prepared to be reversed off the low loader. At the time of the Incident, the worker had been readying the ADT to reverse it off the low loader and was in the process of adjusting the truck's external mirrors. After adjusting the driver's left side mirror from a protected walkway, the worker then walked behind the ADT cabin to the top of the right front wheel arch to adjust the off-side mirror. The off-side of the ADT had no fall protection or guardrails installed. After making the mirror adjustment the worker turned and walked toward the access steps where the worker fell to ground level and suffered injuries.

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**4. an acknowledgement that the regulator alleged a contravention has occurred**

It is acknowledged that, arising out of the Incident, the regulator has alleged that Sibelco has contravened section 32 of the WHS Act by reason of failing to comply with section 19(1) of the WHS Act.

**5. the details of any injury that arose from the alleged contravention**

The worker's head hit the ground, requiring emergency surgery to reduce brain swelling. The worker's injuries included skull and jaw fractures, a brain haemorrhage, and ongoing loss of hearing.

The worker is currently attending the Hunter Brain Injury Service Centre (**HBISC**) for ongoing case management, clinical psychology, social work, and rehabilitation.

**6. the details of any enforcement notices issued that relate to the alleged contravention**

Notices received:

- Yes (provide details)  No

Date issued	Notice type	Notice number	Contravention	Action taken to respond to notice

**7. a statement of assurance about future work health and safety behaviour**

Sibelco is committed to complying with all of its obligations under the WHS Act, the *Work Health and Safety (Mines and Petroleum Sites) Act 2013 (NSW) (WHS Mines Act)*, and relevant regulations.

Sibelco is committed to ensuring, so far as reasonably practicable, the health and safety of all workers engaged, or caused to be engaged by Sibelco while the workers are at work in the business or undertaking, including workers who use Sibelco's plant and equipment.

**8. when an alleged contravention is associated with an injury or illness**

**8.1. the details of the type of workers compensation provided (if the injured person(s) is a worker of the person)**

In order to support the worker and the worker's family, Sibelco has elected to pay above the specified legislated payments payable under the NSW workers compensation regime, electing to continue to pay one hundred percent of the worker's salary.

In addition to the above payments, all of the injured worker's medical and rehabilitation fees have been paid for by Sibelco.

**8.2. details of the support provided, and proposed to be provided, to the injured person(s) to overcome the injury/illness**

The injured person is:

- an employee of the entity  
 a self-employed person  
 other (please specify)  
 not applicable

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Support provided to the injured person(s) or injured person(s) family:

Date	Description of support	Comment
1/2/16	<p><b>Emergency response assistance.</b></p> <p>First aid was administered at site at the time of the incident. Emergency responders arrived within 15 minutes of the incident.</p>	<p>The total cost of all support provided to the worker and the worker's family as detailed in this table is estimated to be \$14,697.20.</p>
3/2/16 to 7/9/16	<p><b>Consultation with the worker and the worker's family.</b></p> <p>Following the incident, contact was made with the worker's family by Sibelco representatives (including the site manager, senior operations managers and HR representative).</p> <p>Ongoing consultation between Sibelco and the worker continues to date.</p> <p>Sibelco provided counselling services to support the worker and the worker's family throughout the recovery process through EAP services being made available.</p>	
3/2/16 to 7/9/16	<p><b>Accommodation costs for family and other out of pocket expenses.</b></p> <p>Sibelco paid for the accommodation costs for immediate family members of the worker to allow these family members to be with the worker while the worker was in hospital.</p> <p>Sibelco also covered the majority of other out of pocket expenses incurred as a result of any need to stay in temporary accommodation, including meals and laundry expenses.</p>	
3/2/16 to 7/9/16	<p><b>Travel and associated costs for family to and from hospital.</b></p> <p>Sibelco provided financial assistance for travel costs in order to support to the immediate family of the worker to enable them to visit the worker while the worker was in hospital.</p> <p>These travel costs included:</p> <ul style="list-style-type: none"> <li>(a) taxi fares or fuel to and from hospital;</li> <li>(b) flights for a family member; and</li> <li>(c) parking at the hospital.</li> </ul>	
3/2/16 to 7/9/16	<p><b>Child care costs.</b></p> <p>To enable the immediate family members to visit and provide support to the worker, Sibelco provided child care support to the family while the worker was in hospital, as well as during the worker's recovery.</p>	
3/2/16 to 7/9/16	<p><b>Assistance at home services.</b></p> <p>In order to assist the worker and the worker's family when the worker returned home, Sibelco provided financial assistance for home services including:</p>	

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	(a) regular gardening services; and	
	(b) Busy-bee home help, as required.	

9. if the matter involves a fatality or very serious injury<sup>1</sup>, a claim to demonstrate that exceptional circumstances exist and the WHS undertaking is a more appropriate response than pursuing prosecution

Does the contravention involve a fatality or very serious injury?

Yes  No

In relation to the Incident, Sibelco believes that the following exceptional circumstances exist:

#### Exceptional circumstances

Sibelco was saddened by the Incident, particularly in light of its efforts to actively manage the risks of working at heights on vehicles. Sibelco believes that there is value for Sibelco to further advance and expand its initiatives in relation to working at heights, and that this is more aligned to a WHS undertaking.

Specifically, and as outlined in the initiatives detailed in Attachment 1 to this WHS undertaking (**WHS Project**), Sibelco has identified four key areas to advance its work in this area, being:

- (a) *Prevention*: Proactive prevention through engaging with workers and the broader industry in relation to improving access systems for new and legacy ADTs, in order to achieve safer working environments and improve compliance with Australian work health and safety (WHS) laws;
- (b) *Support*: enhancing the support and performance capabilities of the next generation of WHS professionals in this lesser known subject matter area; and
- (c) *Consequence*: minimising the flow on consequences of a head injury through advancing the physical rehabilitation services available to those who have suffered a traumatic brain injury or an acquired brain injury in the community, whether at work, or elsewhere by supporting local, specialised rehabilitation facilities and services.
- (d) *Verification*: providing assurance to the regulator in relation to all ADTs at Sibelco's NSW mine sites.

Sibelco has consulted with the worker involved in the Incident in relation to entering into a WHS undertaking and the worker has indicated strong support for the WHS undertaking and WHS Project over a prosecution.

Having regard to the above, Sibelco believes that this WHS undertaking is a more appropriate response than pursuing a prosecution, as the WHS Project initiatives will:

- (a) provide additional resources and valuable assets to workers, the industry, and the wider community in relation to enhancing compliance with WHS laws regarding new and legacy ADTs;
- (b) provide additional physical rehabilitation assets to the community by consulting with and providing funds to local physical rehabilitation services;
- (c) provide opportunities for Sibelco to communicate to workers, the industry, and the broader community about the consequences of the alleged contravention and the opportunities for improved overall compliance in relation to ADTs;
- (d) provide opportunities for Sibelco to consult with the workforce, the industry, and the community through the consultation aspects of the WHS Project;

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- (e) provide a more timely resolution to compliance issues with reduced costs to the regulator and the taxpayer; and
- (f) act as a deterrent of similar effect to legal proceedings.

<sup>1</sup> An injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation of a limb or parts of the body, for example, amputation above the knee or elbow. This term is not defined in the WHS Act; it is used within this document to identify certain circumstances which will trigger additional steps in the WHS undertaking process.

### 10. the details of any existing safety management systems at the workplace including the level of auditing currently undertaken

Sibelco's safety management system is based around risk management of 26 elements which cover the following items:

- Training
- Behaviors
- Health
- Dust Management
- Respiratory Protection
- Hearing Conservation
- Fall Protection
- Stockpile Safety
- Hazardous Substances
- Inspections
- Incident Management
- Auditing
- Contractor Management
- Health and Safety Metrics and KPI's
- Employee Engagement
- Lifting Equipment
- Mobile Equipment
- Emergency Preparedness
- Blasting and Mine Safety
- Hot Work
- Energy Isolation
- Electrical Safety
- Confined Space
- Machine Guarding
- Traffic Management
- Ergonomics

There are company-wide policies (**CWPs**) for each element of Sibelco's safety management system that are developed and implemented to align with the relevant standards and legislation in each jurisdiction. Within New South Wales specifically, this includes:

- (a) WHS Act;
- (b) *Work Health and Safety Regulation 2017 (NSW)*;
- (c) WHS Mines Act; and
- (d) *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 (NSW)*.

Sibelco's sites develop specific Site Operating Procedures (**SOPs**) in accordance with the relevant CWPs.

Sibelco has a company-wide Environmental Health and Safety (**EHS**) Incident and Action Management system called SAM, to support sites in EHS management.

EHS Audits are performed by the Sibelco Corporate EHS team, with approximately nine sites audited on a yearly basis. The EHS audits focus on compliance with the relevant EHS CWPs.

### 11. the details of any consultation undertaken within the workplace regarding the proposal of a WHS undertaking (including workers and work health and safety representatives)

Sibelco wishes to work collaboratively and in consultation with the regulator to appropriately scope and administer the WHS undertaking. Sibelco has undertaken consultation regarding the WHS undertaking with:

- (a) the worker, as noted above, and the worker's family; and
- (b) relevant Sibelco employees, including; senior management, WHS professionals, compliance managers, the WHS Committee.

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In addition, and to ensure the maximum benefit of the WHS undertaking is reached, Sibelco has commenced and will undertake further consultation with:

- (c) HBISC representatives; and
- (d) university representatives

as detailed in the WHS Project.

### 12. a statement of regret that the incident occurred (ie not an admission of guilt)

Sibelco regrets that the Incident occurred.

### 13. any rectifications made as a result of the alleged contravention

The ADT involved in the Incident was immediately isolated and has not been used at any Sibelco site since the Incident.

As a result of the Incident, a Job Risk Assessment (JRA) specific to unloading dump trucks was prepared by the Salt Ash Sand Plant site.

Further, the Salt Ash Sand Plant site was prioritised by Sibelco to undergo a full scale EHS audit which was conducted by the Sibelco EHS audit team and representatives from the Salt Ash Sand Plant site. As part of the EHS audit, CWP, SOPs and JRAs for key identified risk areas, which included Working at Heights, were reviewed and updated as required.

All operators at the Salt Ash Plant site have received, and are receiving programmed scheduled working at heights refresher training.

Company-wide communications were circulated which provided details on the incident and reinforced the need to prioritise safety to Sibelco workers.

The majority of the rectification measures detailed above were conducted internally by Sibelco. The external costs associated with providing:

- (a) the third party working at heights refresher training; and
- (b) the travel and accommodation costs for the Sibelco personnel who undertook the EHS audit

are estimated to have been approximately \$2,500.

Sibelco has maintained its risk based approach to assessing all risks within the workplace. With regard to working at heights, Sibelco's focus is on the application of higher level controls, based on the identified risk. There is an expectation that risk assessment processes are undertaken and that all workers use the equipment available to them; for example mobile fall arrest systems, mobile access ladders and arrest systems, as applicable to the task. This has been further reinforced with Sibelco's workforce through a focus on risk management within Sibelco's internal Health and Safety Audit program.

In regard to all ADTs owned by Sibelco in New South Wales, modifications or installation of handrails/protective guarding have been completed to eliminate unprotected edges. The ADT involved in the Incident, which has remained out of service since the Incident, has been included in this installation program.

The approximate cost for the modifications of the ADTs is \$55,000. As part of an ongoing strategy, Sibelco is committed to reviewing all working at heights risks across its mobile plant fleet.

### 14. an acknowledgement that the WHS undertaking may be published and publicised

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Sibelco acknowledges that the undertaking may be published on the regulator's web site and may be referenced in NSW Resources Regulator materials.

Sibelco acknowledges that the undertaking may be publicised in newspapers or other publications (where applicable, as specified in Section B – enforceable terms).

### 15. a statement of ability to comply with the terms of the undertaking

Sibelco has the financial ability to comply with the terms of this WHS undertaking and has provided evidence with this undertaking to support this declaration.

### 16. statement regarding relationships with beneficiaries

Sibelco acknowledges that there are no known current relationships with any of the beneficiaries outlined in the WHS undertaking, other than the current workers of Sibelco and the broader industry.

### 17. intellectual property licence

Sibelco grants the regulator 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 WHS undertaking.

### 18. the person may be required to provide information of any prior work health and safety convictions

Has the regulator requested a list outlining details of any prior work health and safety convictions or findings of guilt under work health and safety legislation<sup>2</sup> or work health and safety related legislation?

Yes  No

<sup>2</sup> Subject to any local legal constraints such as spent conviction legislation.

The list is attached (if applicable)

Yes  No

### 19. a commitment to participate constructively in all compliance monitoring activities of the undertaking

Sibelco acknowledges that responsibility for demonstrating compliance with this enforceable undertaking rests with the organisation who has given this enforceable undertaking. Evidence to demonstrate compliance with the terms will be provided to the regulator by the due date for the term.

Sibelco acknowledges that the regulator may undertake other compliance monitoring activities to verify the evidence that is provided and compliance with the relevant terms of this enforceable undertaking. The evidence provided to demonstrate compliance with the enforceable undertaking will be retained by the organisation who has given this enforceable undertaking until advised by the regulator that the enforceable undertaking has been completely discharged.

Sibelco acknowledges that the regulator may initiate additional compliance monitoring activities of compliance with the terms of the enforceable undertaking, such as inspections, as considered necessary at the regulator's expense.

### 20. a commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

Sibelco commits that the behaviour that led to the alleged contravention has ceased and that it will take steps to prevent recurrence of the Incident, so far as is reasonably practicable.

### 21. a commitment to the ongoing effective management of work health and safety risks

Sibelco is committed to the ongoing effective management of WHS risks in accordance with the WHS Act, the WHS Mines Act, and relevant regulations.

### 22. acknowledgment of WHS undertaking guidelines



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Sibelco has read and understood:

*Enforceable undertakings guidelines* version 3 dated July 2017.

### Section B – enforceable terms

#### 1. A commitment to cause to be published information about the undertaking

Sibelco will, within 30 days of receiving notification from the regulator of the acceptance of the WHS undertaking, cause a public notice to be published in the *Sydney Morning Herald* which will be drafted using the script provided in Attachment 2.

#### 2. A commitment to disseminate information about the undertaking to workers, and other relevant parties (which may include work health and safety representatives), and in the annual report (if applicable)

Dissemination will be achieved by implementing the following:

- (a) Sibelco will issue a written communication to all Sibelco workers Australia-wide in relation to the WHS undertaking. The written communication will provide information about the WHS undertaking and the initiatives, as detailed in the WHS Project. This will occur within 12 weeks of receiving notification from the regulator of the acceptance of the WHS undertaking.
- (b) Sibelco will undertake further dissemination in accordance with the ongoing consultation initiatives set out in the WHS Project.

#### 3. Strategies that will deliver worker benefits

The WHS Project will deliver benefits to workers through:

- (a) Engaging the industry through an educational video created to promote improvements in WHS practices and raise awareness around the WHS legal obligations in relation to ADTs, as detailed in the WHS Project. Further, Sibelco will engage with workers and the broader industry by presenting at five industry forums and/or seminars in relation to the incident, lessons learned, and fall from height and fall protection awareness (**Industry Engagement Initiative**). This initiative will ultimately enhance the protection of workers and other persons against harm to their health and safety arising from hazards or risks associated with new or legacy ADTs.
- (b) The creation of two university student internships to undertake an audit and case study at specified Sibelco sites and prepare a report of their recommendations, as detailed in the WHS Project (**Internship Initiative**). This initiative will allow Sibelco to benefit from the knowledge and skills of the students, ultimately enhancing the health and safety of Sibelco's workers.
- (c) The provision of funding to the HBISC in the Hunter Valley and Newcastle area for the rehabilitation of traumatic brain injury and other neurological conditions (**HBISC Funding Initiative**). HBISC has identified that there are a number of urgent projects that HBISC would like to undertake in relation to upgrades to infrastructure and facilities, as detailed in the WHS Project. These upgrades will enhance the care that HBISC provides to members of the community who have suffered a brain injury, including any workers.
- (d) The engagement of a third party to undertake an audit of all ADTs at Sibelco's NSW mine sites against the access, egress and fall prevention requirements of the *Mining Design Guideline 15 - Mobile and transportable plant for use on mines and petroleum sites (January 2018)*. The report will include an action plan, which will be provided to

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the regulator. Any recommendations in the action plan will be actioned by Sibelco, so far as is reasonably practicable (**Audit Initiative**).

### 4. Strategies that will deliver industry benefits

The WHS Project will deliver benefits to the industry through:

- (a) The Industry Engagement Initiative, which will raise awareness and promote compliance with specific WHS obligations through an engaging and accessible visual medium. Through broad distribution and accessible content, this initiative will provide valuable information to the industry in relation to enhancing WHS compliance. The presentations to industry at industry forums and/or seminars will further raise awareness about fall from height risks and fall protection.
- (b) The Internship Initiative, which will provide the students with an introduction to the industry, will increase the students' awareness of this area, and will enhance their subject matter expertise in a practical way that they might not otherwise receive through their university education. This exposure to the industry may also encourage students to pursue a career in the industry, and accordingly, may increase the number of skilled WHS professionals in the industry.
- (c) The HBISC Funding Initiative which, in addition to providing benefits to workers, will also benefit broader industry members who require the support and care of the HBISC.

### 5. Strategies that will deliver community benefits

The WHS Project will deliver benefits to the community through:

- (a) The Industry Engagement Initiative, through promoting improvements in WHS practices and educating a broad range of duty holders on ways to enhance compliance with obligations under the WHS legislation, will impact a wide cross section of the workforce and will serve to help create a safer community.
- (b) The Internship Initiative, which will have a positive impact on the wider community by allowing the students to implement and develop subject matter knowledge and skills in a practical environment. The students' university will also be able to leverage audit and case study undertaken with its other current and future students, ultimately increasing the capabilities of the next generation of safety professionals in NSW.
- (c) The HBISC Funding Initiative, which will benefit the wider community through the provision of resources to the HBISC, to enhance the support and care the HBISC provides to the Newcastle and wider Hunter Valley community for the rehabilitation of traumatic brain injury and other neurological conditions.

### 6. A commitment regarding linking the promotion of benefits to the WHS undertaking

Sibelco is committed to linking any promotion of a benefit arising from this WHS undertaking to the WHS undertaking.

### 7. A commitment to reimburse the regulator's agreed costs associated with any monitoring of the enforceable undertaking

Where the regulator considers appropriate in the circumstances:

Sibelco agrees to pay the regulator's costs associated with the undertaking, as itemised below, and acknowledges that payment is due **30 days** after receipt of the regulator's invoice:

<input type="checkbox"/> investigative, legal and administrative costs	\$163,252
<input type="checkbox"/> compliance monitoring costs	\$8,500
<input type="checkbox"/> publication costs	\$0

**Total amount** **\$ 171,752**

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Insert case, if any, for why the regulator would not seek to recover costs.

Nil.

**8. Minimum spend**

Sibelco commits to a minimum spend of \$513,449.50 in complying with this WHS undertaking, inclusive of the regulator's recoverable costs.

Sibelco acknowledges the minimum spend comprises of:

Activities to deliver	Total minimum cost
Estimated cost of the WHS Project (as set out in the WHS Project in Attachment 1)	\$341,697.50
Regulator recoverable costs	\$171,752
<b>Minimum total value of the undertaking</b>	<b>\$513,449.50</b>

**9. Project of undertaking**

Sibelco will carry out the projects set out in Attachment 1 to the WHS undertaking. In particular, Sibelco will complete the project components set out in section 6 of Attachment 1 within the timeframe specified in section 6 of Attachment 1.

**10. Timeframe for delivery**

The WHS undertaking will be delivered on or before 24 months following acceptance of this enforceable undertaking by the regulator.

*[Faint handwritten notes and signatures are visible in this area, including the name "Sibelco" and a signature.]*

**Section C - Offer of undertaking**

**BY AN INDIVIDUAL**

I offer this undertaking and commit to the terms herein.

Signed: .....  
[Person]

Name: .....  
[Print name]

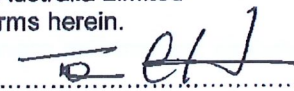
Position: .....

Dated at ..... this  
..... day of ....., 20.....

**BY A CORPORATION**

As a duly appointed and authorised officer or agent of Sibelco Australia Limited

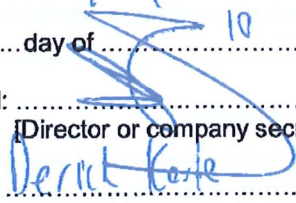
I offer this undertaking and commit to the terms herein.

Signed:  .....  
[Director]

Name: Tom Cutbush .....  
[Print name]

Position: Director

Dated at 15/10/18 - Sydney this  
15 day of 10, 2018

Signed:  .....  
[Director or company secretary]

Name: Derrick Kote .....  
[Print name]

Position: Director

Dated at Sydney this  
15 day of 10, 2018

**Section D - Regulator's acceptance of undertaking**

I accept this undertaking as an enforceable undertaking under section 216 of the Work Health and Safety Act 2011.

Signed:  ANTHONY KEAD

Position: CHIEF COMPLIANCE OFFICER delegate of the Secretary,  
Department of Planning and Environment

Dated at Maitland this 14<sup>TH</sup> day of November, 2018.

WHS undertaking

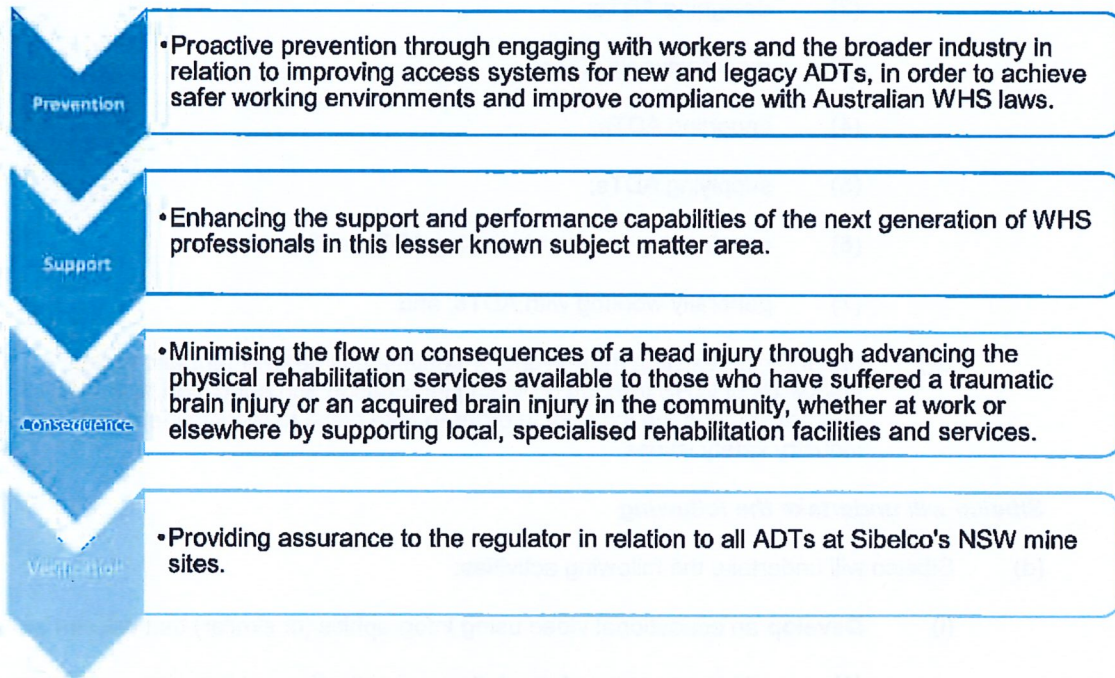
ATTACHMENT 1

(This attachment is incorporated in and considered part of this WHS undertaking for the purposes stated herein, and are enforceable terms given under Section B of the undertaking by Sibelco Australia Limited)

**SIBELCO AUSTRALIA LIMITED -  
WHS UNDERTAKING**

**1. The WHS Project**

1.1. Sibelco has identified four priority areas to deliver improvements to health and safety through this project, being:



1.2. Sibelco will take steps to address each of the four areas identified above in a way that will bring benefit to Sibelco's own workforce, the industry, and the community through the project initiatives detailed below (the **WHS Project**).

**2. WHS Projects**

**2.1. Initiative 1: Industry Engagement Initiative**

**Overview**

- (a) Sibelco believes that an opportunity exists to proactively prevent further incidents by engaging with the broader industry, on the relevant obligations under the *Work Health and Safety Act 2011 (NSW) (WHS Act)* and *Work Health and Safety Regulations 2017 (NSW) (WHS Regulations)* when working with new and legacy ADTs.
- (b) Sibelco has aligned the objectives of this initiative to directly reflect and advance a number of key objects of the WHS Act.
- (c) The objective of this initiative will be to:

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- (i) encourage OEMs, purchasers, and the industry to take a constructive role in promoting improvements in WHS practices to achieve a healthier and safer working environment;
- (ii) protect workers in the industry and wider community from harm to their health and safety through the elimination or minimisation of risks arising from ADTs;
- (iii) promote compliance and raise awareness of relevant duties and obligations under the WHS Act in relation to ADTs, including;
  - (1) managing or controlling ADTs at workplaces;
  - (2) designing ADTs;
  - (3) manufacturing ADTs;
  - (4) importing ADTs;
  - (5) supplying ADTs;
  - (6) constructing or commissioning ADTs; and/or
  - (7) generally working with ADTs; and
- (iv) enhance the existing framework for continuous improvement and higher standards of WHS through providing information and education to OEMs, purchasers, and the industry in order to take steps to resolve identified industry safety issues.

***Sibelco will undertake the following***

- (d) Sibelco will undertake the following activities:
  - (i) **Develop** an educational video using infographics (or similar) that will aim to:
    - (1) raise awareness of the duties and obligations which may apply when working with new or legacy ADTs under the WHS laws;
    - (2) identify opportunities to enhance the safety of new and legacy ADTs and the risks of non-compliance with WHS laws; and
    - (3) encourage further commitment from workers and industry in promoting and developing improvements in the safety of ADTs.
  - (ii) **Distribute** educational video:
    - (1) across Sibelco globally, reaching the current workforce (which is currently approximately 11,000) through:
      - a. Sibelco's online communication platform, Yammer; and/or
      - b. presented by site managers to their teams across Sibelco sites globally (currently 201 sites);
    - (2) through a targeted digital marketing campaign;
    - (3) publicly available on the Sibelco website; and
    - (4) to the regulator for use.

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- (iii) **Present** at a minimum of five industry forums, seminars or similar events, to be agreed in consultation with the regulator, in relation to:
  - (1) the Incident;
  - (2) the lessons learned; and
  - (3) fall from height and fall protection awareness.

#### **Deliverables**

- (e) **Educational video** (duration 1 to 2 minutes) as described above at 2.1(d)(i).
- (f) **Distribution of educational video** as stated above at 2.1(d)(ii).
- (g) **Presentations** (5) to industry forums (or similar), as detailed above at 2.1(d)(iii).

### **2.2. Initiative 2: WHS Internships**

#### **Overview**

- (a) Sibelco recognises that an opportunity exists to enhance the support and performance capabilities of university students studying WHS which will serve to benefit the students, as well as the industry and broader community, by fostering the skills of WHS professionals in NSW. In addition, providing students the opportunity to engage with the industry and apply their knowledge and skills in a practical environment, will have a direct benefit for Sibelco's workers, as well as the industry as a whole.
- (b) In order to support the education of WHS professionals in the industry, and in NSW generally, Sibelco will offer two internships to students studying WHS or a similar qualification at the University of Newcastle and/or the University of Wollongong, in order to support regional universities in NSW (**Internships**).
- (c) The objective of the Internships will be to:
  - (i) provide the students with an introduction to the industry and to further their understanding of the WHS challenges and career opportunities a WHS professional can have in the industry.
  - (ii) provide Sibelco, as well as the wider industry, the opportunity to benefit from the skills and education of the students, providing a perspective on the possible WHS enhancements in relation to the identified risks.

#### **Sibelco will undertake the following**

- (d) Sibelco will engage with and support the two students and the students' university to allow the two students to undertake the following:
  - (i) **Provide two internship positions** for NSW university students studying WHS or similar area of study. The Internships will:
    - (1) Be offered to penultimate or final year students, during university semester or during the university break, as agreed with the NSW university;
    - (2) run for six weeks, for a maximum of 40 hours per week (or alternate arrangement for the same total duration of 240 hours per Intern, as suitable to the Interns' availability); and

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- (3) be based at one of Sibelco's sites, depending on the location of the available projects and development opportunities for the Interns.
- (ii) **During the Internship** the Interns will gain experience in:
  - (1) project management;
  - (2) data collecting and reporting; and
  - (3) stakeholder engagement.

The Interns will participate in as many Health and Safety Team activities as possible and will have the opportunity to visit a number of Sibelco sites.

The Interns will be managed by a Senior Health and Safety advisor and will be provided opportunities to be immersed in the business from a WHS perspective.

- (iii) **Conduct an audit and case study**, to be led by the students, on the management of working at heights risks across specific Sibelco sites, and/or the management of another key risk identified within Sibelco at the time of the Internships.
- (iv) **Prepare a report** for Sibelco on the recommendations following the audit and case study that will:
  - (1) be presented to senior management at Sibelco and will assist Sibelco to manage hazards and risks associated with working at heights (or other identified key risk);
  - (2) be used to increase the students' awareness of this area and will enhance their subject matter expertise in a practical way that will further their university studies; and
  - (3) be used as an additional case study resource at the students' university to be incorporated in the university's curriculum, as determined by the university.

#### *Deliverables*

- (e) **Recommendations Report** to be prepared by the students, based on analysis of the audit and case study.
- (f) Sibelco will undertake any recommendations within the Report, so far as is reasonably practicable to do so.
- (g) The Recommendations Report will be made available to the Interns' respective universities for use as a case study (or similar).

### 2.3. Initiative 3: Hunter Brain Injury Service Centre Funding Initiative

#### **Overview**

- (a) Sibelco recognises that an opportunity exists to minimise the flow on consequences of a head injury through advancing the physical rehabilitation services available to those who have suffered a traumatic brain injury or an acquired brain injury. The Hunter Brain Injury Service Centre (HBISC) provides rehabilitation services to residents of Newcastle and Hunter Valley who have suffered a traumatic brain injury or an acquired brain injury. The HBISC provides transitional living arrangements for



#### WHS undertaking

up to five people, outpatient and outreach services, and is currently providing care and rehabilitation services to the worker injured as a result of the Incident.

- (b) Through initial consultation with the HBISC, Sibelco has identified that HBISC has a real need for funding for a number of strategic initiatives. In order to enhance the rehabilitation services that HBISC provides, Sibelco will provide funds to the HBISC to support a number of these initiatives.
- (c) The objective of this initiative is to provide HBISC with funding to support specific, high priority projects identified by HBISC.

#### ***Sibelco will undertake the following***

In consultation with the HBISC, Sibelco agrees to provide funds to the HBISC for the following Infrastructure projects at the HBISC:

#### **Stage 1 - Landscaping works:**

- (i) Removal of old mesh (tennis court) fencing and replacement of mesh fence around boundary of outdoor recreation area.
- (ii) Remediation of boundary fence between HBISC and neighbouring properties.
- (iii) Installation of artificial grass and associated ground works.
- (iv) Installation of shade sails.

#### **Stage 2 - Installation of outdoor exercise stations.**

#### **Stage 3 - Creation of therapy garden along the side of the facility:**

- (i) Removal of concrete slab and levelling of yard.
- (ii) Concrete paths and ramp access to side of yard.
- (iii) Raised garden beds at various heights.
- (iv) Installation of soil and plants.
- (v) Seating area.

**Stage 4 - Upgrade of facility entrance and installation of automatic sliding doors to enhance accessibility.**

#### ***Deliverables***

- (d) **Funding** to the HBISC for the Infrastructure Project detailed above at 2.3(d) at a minimum cost of \$190,000.

### 2.4. **Initiative 4: Audit Initiative**

#### ***Overview***

- (a) Sibelco has modified all of its ADTs across its NSW sites, in order to add additional controls to eliminate or minimise the risk of falling from heights while working on ADTs. In order to provide verification to the regulator, Sibelco will commission a third party audit of all ADTs at Sibelco's NSW mine sites against the access, egress and fall prevention requirements of the *Mining Design Guideline 15 - Mobile and*

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*transportable plant for use on mines and petroleum sites (January 2018)* and provide a report to the regulator.

#### **Sibelco will undertake the following**

- (b) Engage a third party to undertake an audit of all Sibelco ADTs across its NSW sites against the access, egress and fall prevention requirements of the *Mining Design Guideline 15 - Mobile and transportable plant for use on mines and petroleum sites (January 2018)*.
- (c) The audit will include a report and an action plan for any recommendations.
- (d) Sibelco will commit to action any recommendations made in the action plan, so far as is reasonably practicable.

#### **Deliverables**

- (e) **Audit report and action plan** prepared by a third party auditor.
- (f) **Action** of any recommendations in the action plan by Sibelco, so far as is reasonable practicable.

### **3. WHS Project Governance**

- 3.1. Sibelco will resource internal personnel and will engage external personnel as required (detailed below at 4.6) to carry out the WHS Project activities, detailed above. Any person allocated, engaged or recruited to carry out a component of the WHS Project will be suitably qualified, skilled and experienced.
- 3.2. A WHS Project Steering Committee consisting of senior Sibelco personnel will be established to oversee the governance of the WHS Project (**WHS Project Committee**). The WHS Project Committee will review the progress of the WHS Project at regular monthly intervals.
- 3.3. The WHS Project Committee's members will include:
  - (a) Regional Manager, APAC;
  - (b) Senior Operations Manager, Australia;
  - (c) Deputy General Counsel, Australia;
  - (d) Health and Safety Manager, Australia;
  - (e) Regional Operations Manager, Australia; and
  - (f) Communications Manager, Australia.
- 3.4. A Project Manager will be appointed by the Regional Manager APAC for the duration of the project. The Project Manager will:
  - (a) be responsible for managing the WHS Project activities and deliverables;
  - (b) report to the Regional Manager APAC in relation to the WHS Project;
  - (c) be the Sibelco contact for the Department in relation to the WHS Project; and
  - (d) coordinate the activities of the internal and external resources to confirm the delivery of the WHS Project initiatives.

#### WHS undertaking

- 3.5. The three WHS Project initiatives will have an appointed member of the WHS Project Committee to oversee the implementation of initiatives. These are:
- (a) the Health and Safety Manager, who will be overseeing the WHS Internship Initiative; and
  - (b) the Regional Manager, who will be overseeing the HBISC Funding Initiative.
- 3.6. External personnel will also be engaged to assist with various components of the WHS Project and will include:
- (a) legal representatives with expertise in WHS law; and
  - (b) a creative agency with expertise in graphics, video, and animation production or similar skills.
- 4. Consultation**
- 4.1. Sibelco will consult with the following in relation to the WHS Project:
- (a) worker and the worker's family;
  - (b) representatives from HBISC including the Service Manager of HBISC, and the General Manager of the NSW Agency of Clinical Innovation;
  - (c) representatives from the Internship Universities, being:
    - (i) Graduate Career Development and Employability representative from University of Wollongong; and
    - (ii) Employability Consultant, Careers and Student Development Office representative from the University of Newcastle; and
  - (d) legal representatives with expertise in WHS law.
- 4.2. Consultation will be undertaken through the following methods:
- (a) HSEC (corporate);
  - (b) WHS Committee (individual site);
  - (c) with the workforce as required throughout the WHS Project, through various communication methods including Sibelco's online forum Yammer, team talks, and direct engagement from managers to personnel; and
  - (d) direct contact with:
    - (i) subject matter experts in the areas identified;
    - (ii) representatives of HBISC;
    - (iii) representatives of the identified NSW universities; and
    - (iv) various scheduled forums to facilitate and encourage stakeholder input.
- 4.3. The expected outcome of the broad consultation and involvement of key stakeholders referred to above is greater understanding of the key issues to be addressed and the best way in which Sibelco can address those needs through the WHS Project.

**WHS undertaking**

**5. WHS Project Final Report**

Sibelco will provide a final report on the WHS undertaking and Project outcomes to the regulator which will include details on the Project Deliverables as outlined in each initiative above.

**6. WHS Project Staging and Timeframes for Delivery**

Component	Timeframes
<b>Industry Engagement Initiative</b>	
Development of educational video (duration 1 - 2 minutes).	Within 6 months of WHS undertaking acceptance.
Distributing educational video as detailed above at 2.1(d)(ii) above.	Within 12 months of WHS undertaking acceptance.
Presentations to industry forums and seminars as detailed at 2.1(d)(iii) above.	Within 18 months of WHS undertaking acceptance.
<b>Internship Initiative</b>	
Consultation with university representatives and establishing scope of Internships.	Within 3 months of WHS undertaking acceptance.
Advertising positions on university websites and recruitment process.	Within 6 months of WHS undertaking acceptance
Confirming students and scheduling Internship period to coincide with university timetable.	Within 12 months of WHS undertaking acceptance.
Facilitating Internships (two students for a total of six weeks).	Within 24 months of WHS undertaking acceptance.
Recommendations Report: (a) completed (b) provided to the Universities; and (c) presented to Sibelco.	Within 24 months of WHS undertaking acceptance.
<b>HBISC Funding Initiative</b>	
Consultation with representatives from the HBISC to confirm scope for funding.	Within 3 months of WHS undertaking acceptance.
Provision of funding to HBISC to undertake agreed projects.	Within 6 months of WHS undertaking acceptance.
<b>WHS Project Final Report</b>	
Collating feedback required for final WHS Project Final Report.	Within 18 months of WHS undertaking acceptance.

**WHS undertaking**

WHS Project Final Report provided to the regulator.	Within 24 months of WHS undertaking acceptance.
<b>Audit Initiative</b>	
Audit report and action plan provided to regulator.	Within 6 months of WHS undertaking acceptance.
Completion of any recommendations made in action plan, so far as is reasonably practicable.	Within 12 months of WHS undertaking acceptance.
<b>Total time required for completion</b>	<b>24 months from WHS undertaking acceptance.</b>

6.2. For the purposes of section 6, "WHS undertaking acceptance" means; the date on which this WHS undertaking is signed by the regulator or the regulator's delegate.

**7. Costs**

7.1. Sibelco will spend the following minimum amounts in relation to the following components of the WHS Project:

<b>Component</b>	<b>Minimum cost (inc GST)</b>
<b>Industry Engagement Initiative</b>	<b>\$68,000.00</b>
Consultation with WHS specialists and legal advisors on educational video script and storyboard	\$10,000
Development of educational video (1 - 2 minutes in duration).	\$29,000
Translation of education video into 29 languages	\$16,500
Distributing educational video in accordance with 2.1(d)(ii) above.	
Presentations in accordance with 2.1(d)(iii) above.	\$12,500
<b>Internship Initiative</b>	<b>\$64,588.00</b>
Provision of Internships:	
Salary 480 hours	\$17,488
Accommodation	\$19,400
Travel	\$24,600
PPE and other equipment	\$1,600
Recruitment cost and medicals	\$1,500
<b>HBISC Funding Initiative</b>	<b>\$190,000.00</b>
By stage, as detailed at 2.3(d) above.	
<i>Stage 1</i>	\$126,418.60
<i>Stage 2</i>	\$8,555.50
<i>Stage 3</i>	\$32,328.30
<i>Stage 4</i>	\$22,697.60

**WHS undertaking**

<b>Audit Initiative</b>	<b>\$19,109.50</b>
<b>Total minimum cost</b>	<b>\$341,697.50</b>

**8. Variations**

- 8.1. Any proposed variations to any aspects of the WHS Project or the WHS undertaking must be approved by the WHS Committee but will not take effect unless accepted in writing by the regulator.

## Attachment 2

### Public Notice of regulator's acceptance of undertaking

#### Notice of acceptance of a WHS undertaking under Part 11 of the *Work Health and Safety Act 2011 (NSW)*

A worker at the Sibelco Salt Ash Sand Plant fell about 2.7 metres from the platform of an articulated dump truck and suffered serious head injuries on 1 February 2016.

The Department of Planning and Environment investigated the incident and subsequently alleged that Sibelco Australia Limited contravened section 32 of the Work Health and Safety Act 2011 (WHS Act) by failing to comply with a health and safety duty under section 19(1) of the WHS Act.

This notice has been placed under the terms of a work health and safety (WHS) undertaking given by Sibelco and acknowledges acceptance of the WHS undertaking, which is enforceable under the WHS Act.

The WHS undertaking requires the following actions:

- Develop and share an educational video on safety issues and improving access systems for new and legacy articulated dump trucks (ADTs) with workers and the broader industry.
- Present at a number of industry forums on the incident, the lessons learned, and fall from height and fall protection awareness.
- Provide and fund two internships that include work placement and research opportunities at Sibelco sites for university students studying WHS.
- Provide funding to the Hunter Brain Injury Service Centre for infrastructure projects and works at the centre.
- Commission a third party audit of Sibelco's ADTs in NSW and provide a report and action plan to the regulator.

The full undertaking and general information about enforceable undertakings is available at [www.resourcesandenergy.nsw.gov.au](http://www.resourcesandenergy.nsw.gov.au)

