

Outline of Enforceable Undertaking proposal

A.W. Edwards Pty Ltd [ACN 000 045 849] (**Company**) proposes an Enforceable Undertaking given under Section 9.5 of the Environmental Planning and Assessment Act 1979 (NSW) (**Act**), based on the following draft:

This Undertaking is given to the Department of Planning, Housing and Infrastructure (the department) by the Company, for the purposes of section 9.5 of the Environmental Planning and Assessment Act 1979 (NSW)).

Background

The Company was the construct only contractor to Sydney Metro for the Crows Nest Station Development.

NSW Planning investigated the Company in relation to:

1. Construction outside of approved hours;
2. Access to neighbouring property not being maintained; and
3. Non-implementation of some aspects of its Construction Environmental Management Plan.

Section 5.14 of the Act requires persons to comply with any conditions to which the Minister's approval or State significant infrastructure is subject. The Minister granted approval for Sydney Metro City (Chatswood to Sydenham) SSI-7400 on 9 January 2017 upon a number of conditions.

Those conditions included:

- a. condition of approval E36, which required that construction must only be undertaken during the following standard construction hours, subject to certain nominated exceptions concerning out of hours work.
- b. condition of approval E86, which required that during construction, measures must be implemented to maintain pedestrian and vehicular access to, and parking in the vicinity of, businesses and affected properties.
- c. condition of approval C10, which required that the CEMP and CEMP subplans, as approved by the Secretary, must be implemented for the duration of construction. This included internal auditing of environmental compliance on a quarterly basis.

During the course of construction:

- a. a subcontractor to the Company performed works in a location within the construction site where out of hours approval obtained by the Company did not allow works to be performed. As the out of hours approval did not permit works to

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be performed at the relevant location at the time of the event, NSW Planning considers the conduct to contravene the Act;

- b. resequencing of certain works caused access to neighbouring parking to be blocked on dates that had not been notified to nearby residents; and
- c. During the period 29 September 2022 to 20 June 2024 environmental compliance was not audited on a quarterly basis

The Company acknowledges that the conduct contravened section 5.14(2) of the Act and has offered this undertaking to NSW Planning.

Commencement of this Undertaking

This Undertaking comes into effect when:

- (a) this Undertaking is executed by the Company, and
- (b) this Undertaking so executed is accepted by the Planning Secretary of the department or delegate.

(the **Commencement Date**).

Undertaking

The Company undertakes for the purposes of section 9.5 of the Act that it will:

- i. establish and administer a monetary grant for the benefit of the community within the vicinity of the Crows Nest Station Development to the maximum aggregate value of \$40,000;
- ii. assess community benefit based on the existence of at least one of the following criteria:
 - benefit to the local environment;
 - community amenity;
 - community services; and
 - Sustainability.
- iii. maintain and continue to implement the community grant for a period of 1 year from the date of this Undertaking coming into effect;
- iv. fund the internal cost of administration of the community grant up to the value of \$21,785; and
- v. provide, at its own expense, a copy of any documents required by the department *including but not limited to* a:

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- a. progress report for the period to 31 December 2024 to compliance@planning.nsw.gov.au by 15 January 2025 (or as otherwise agreed) covering the program launch and the acceptance of applications
- b. progress report for the period to 31 March 2025 to compliance@planning.nsw.gov.au by 15 April 2025 (or as otherwise agreed) covering the review of applications and the award of grants to successful applicants
- c. final report for the period to 30 June 2025 to compliance@planning.nsw.gov.au by 15 July 2025 (or as otherwise agreed) covering the delivery of the community benefit initiatives by the successful applicants.

Use of the grant monies will be subject to a written agreement with each successful grant recipient.

Below is a provisional timeline, subject to further discussion and refinement, to deliver the community grant program

Activity	Month	Deliverables	Collateral
Program development and endorsement	Month 1 September 2024	<ul style="list-style-type: none"> • Develop program guidelines <ul style="list-style-type: none"> ◦ define eligibility criteria, application process, evaluation criteria, and grant limits. • Create application form and establish application process, terms and conditions. • Create promotional materials to announce the grant program. • Obtain endorsement from relevant entities. 	<ul style="list-style-type: none"> • Community grant Application form • Promotional materials: <ul style="list-style-type: none"> ◦ Factsheet ◦ Flyer/postcard ◦ Application form (web-based) ◦ Website text ◦ A W Edwards LinkedIn post ◦ Boards to be displayed (locations to be determined) ◦ Advertisement to be placed in North Shore Times

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		<ul style="list-style-type: none"> • Set up an online application platform 	<ul style="list-style-type: none"> ○ Potential inclusion in final Crows Nest October newsletter
Program launch and promotion	Month 2 October 2024	<ul style="list-style-type: none"> • Release of promotional materials via letterbox, community noticeboards, advertisement, email and various stakeholder channels • Consultation with identified groups • Dedicated contact to respond to enquiries and manage program 	<ul style="list-style-type: none"> • Select promotional materials: <ul style="list-style-type: none"> ○ Factsheet ○ Website text ○ A W Edwards LinkedIn post ○ Boards to be displayed (locations to be determined) ○ Advertisement to be placed in North Shore Times ○ Potential inclusion in final Crows Nest October newsletter
Applications open	Month 3 November 2024	<ul style="list-style-type: none"> • Open application portal • Promotion of opening • Provide application support • Establish clear deadline for submissions 	<ul style="list-style-type: none"> • AWE LinkedIn post • Email to targeted groups/ other interested parties as a reminder that applications are open • Flyer/postcard distribution
Review and Selection	Month 4-5 December 2024/ January 2025	<ul style="list-style-type: none"> • Assemble review panel • Evaluate applications based on established criteria. • Select recipients 	<ul style="list-style-type: none"> • Prepare letters for successful/ unsuccessful grant recipients

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Announce grant recipients	Month 6 February 2025	<ul style="list-style-type: none"> Contact all applicants and advise on outcome Issue sponsorship agreements to successful applicants 	<ul style="list-style-type: none"> Sponsorship agreements to be prepared by AWE legal team Develop a summary of requirements to support applicants
Sponsorship agreement issue and signing	Month 6 February 2025	<ul style="list-style-type: none"> Sponsorship agreements issued to successful applicants Sponsorship agreements to be returned with requested documentation and co-signed by AWE 	<ul style="list-style-type: none"> Sponsorship agreements
Sponsorship money awarded	Month 7 March 2025	<ul style="list-style-type: none"> Sponsorship money awarded Event held at A W Edwards head office 	<ul style="list-style-type: none"> Novelty cheques
Public announcement	Month 7 March 2025	<ul style="list-style-type: none"> Communicate successful applicants 	<ul style="list-style-type: none"> LinkedIn post Advertisement (potential)
Completion information provided to A W Edwards	Month 10 June 2025	<ul style="list-style-type: none"> Grant recipients provide evidence of money expended and activity delivered 	<ul style="list-style-type: none"> Photographic evidence of activity occurring and any supporting collateral
Record of community benefit	Month 10 June 2025	<ul style="list-style-type: none"> Report prepared to document program 	<ul style="list-style-type: none"> Community grant report prepared describing the initiative and benefits achieved

Acknowledgments

The Company acknowledges that:

- a) NSW Planning will make this Undertaking publicly available including by publishing it on its public register of section 9.5 undertakings on its website;

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- b) NSW Planning will, from time to time, make public reference to this Undertaking including in news media statements and in department's publications;
- c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct;
- d) the Company will seek and obtain evidence from the successful grant recipients that the grant funds have been used for their intended purpose;
- e) The final form of publications and publicity will depend upon suitable approval and intellectual property consents from Sydney Metro; and
- f) a summary of NSW Planning Compliance Program review reports may be held with this Undertaking in the public register.

Executed as an Undertaking

Executed by A W Edwards Pty Limited, ABN 76 000 045 849, pursuant to section 127(1) of the Corporations Act 2001 by:

Signature of director




Name of director (print)

COLIN O'CONNELL

Date 13.09.2024

Signature of a director


Name of director/~~company secretary~~
(print)

JUSTIN SMITH

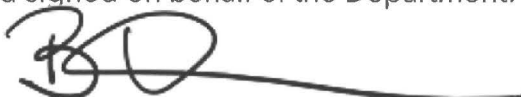
Date 13/9/24

Accepted by the Planning Secretary of the Department Planning, Industry and Environment pursuant to Section 9.5 of the Environmental Planning and Assessment Act 1979 on:

Date

13.9.2024

and signed on behalf of the Department:



Planning Secretary or delegate

Ben Harrison - Director Compliance

Date 13.9.2024