

**Undertaking given under Section 9.5 of the  
Environmental Planning and Assessment Act  
1979 (NSW) by:  
ACFS Port Logistics Pty Limited  
ACN: 603 120 047**

### Enforceable Undertaking

This is an Enforceable Undertaking given under Section 9.5 of the Environmental Planning and Assessment Act 1979 (NSW) by the Department of Planning and Environment

### Person(s) giving the Undertaking

This Undertaking is given to the Department of Planning and Environment (**the Department**) by ACFS Port Logistics Pty Limited ACN: 603 120 047, for the purposes of section 9.5 of the Environmental Planning and Assessment Act 1979 (NSW).

### Background

ACFS Port Logistics (**ACFS**) was founded by Terry and Arthur Tzaneros in December 2005, with the vision to create one of Australia's premier warehousing, transport and freight logistics companies. Since its inception, the company has built a strong customer base consisting of some of Australia's largest blue chip Importers and Exporters. ACFS is the largest privately owned Container Logistics operator in Australia, moving over 1.2m TEU annually, and employs in excess of 1,200+ staff nationally.

ACFS's container freight station activities are underpinned by extensive knowledge and experience across the warehousing, transport and freight sectors. This has helped build a comprehensive portfolio of facilities and clientele in Sydney, Melbourne, Brisbane, Adelaide, and Fremantle. Facilities are strategically located in port locations to maximise quick and efficient utilisation of the wharf, whereas the utilisation of inland based facilities in Sydney and Melbourne are used to compliment the diverse clientele base across the metropolitan areas.

St Marys Freight Hub provides a local freight container distribution centre for Western Sydney. The site for the freight hub is to the south of Lee Holm Road, west of Forrester Road and north of the Main Western Rail Line. The Facility will form an important port link to move containers to and from Port Botany to greater western Sydney. This will result in increased freight movement via rail and thus relieving the demand on the regional and local road network from container freight related traffic.

### Description of the conduct the subject of the investigation

The Department alleges that ACFS has committed multiple offences against section 4.2(1)(b) of the Environmental Planning and Assessment Act 1979 (Act) by using a truck route not in accordance with the conditions of development consent SSD-7308 (**Consent**) located at Lot 2 DP 876781, Lot 3 DP 876781, Lot 196 DP 31912 and Lot 2031 DP 815293 (**Premises**).

Between 10 December 2021 and 7 March 2022, it is alleged that ACFS breached Condition E3 of the Consent on multiple occasions by using a truck route (Appendix A) that was not compliant with the truck routes (Appendix B) approved by the Operational Traffic and Access Management Plan (**OTAMP**) dated 10 September 2021 which was approved by a delegate of the Planning Secretary on 28 October 2021 under Condition D8 of the Consent.

Condition E3 of the Consent states:

"The OTAMP approved under condition D8 (as revised from time to time) must be implemented by the Applicant for the life of the development."

The Department has investigated the alleged non-compliances and reasonably suspects that ACFS has breached section 4.2(1)(b) of the Act by failing to comply with Condition E3 of the Consent.

### Explanation of why the Department considers the conduct to contravene the Act

In response to the Department's investigation, ACFS has:

- a) acknowledged that its conduct contravened Section 9.5 of the Environmental Planning and Assessment Act 1979 (NSW), and
- b) offered this Undertaking to the Department.

### Commencement of this Undertaking

This Undertaking comes into effect when:

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

### Undertaking

ACFS undertakes for the purposes of section 9.5 of the Act that:

1. It will pay the sum of \$45,000.00 to Blacktown City Council ("**the financial contribution**"), which will be directed towards the project/s outlined in Appendix C;
2. The financial contribution will be paid by 27 June 2022;
3. The financial contribution will be deposited into the following nominated account:
  - o Invoice Number: 4343/22
  - o Debtor Number: 718175
  - o Bpay Biller Code: 857953
  - o Bpay Reference: 7181753
4. Within 7 days of making the financial contribution, ACFS will provide proof of payment by:
  - o Sending an email to the Department at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) enclosing a copy of the bank statement or transaction receipt for the financial contribution; and
  - o Emailing the Manager, Access and Transport Management, Blacktown City Council at [Richard.Campbell@blacktown.nsw.gov.au](mailto:Richard.Campbell@blacktown.nsw.gov.au) and copy in [council@blacktown.nsw.gov.au](mailto:council@blacktown.nsw.gov.au) enclosing a copy of the bank statement or transaction receipt for the financial contribution.

### Blacktown City Council project

ACFS will make a financial contribution, as stated above, to Blacktown City Council. The financial contribution will fund a road project to lengthen the right-turn bay located on Luxford Road at the traffic signals on Palmyra Avenue. This project will improve road quality and intersection capacity within the Blacktown City Council LGA.

The project details are:

1. Project reference number: 301904
2. CM9 ref: F22/190

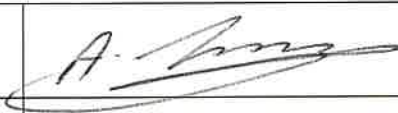
### Acknowledgments

ACFS acknowledges that:

- a) the Department will make this Undertaking publicly available including by publishing it on the Department's public register of section 9.5 undertakings on its website
- b) the Department 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, and
- d) a summary of the Department Compliance Program review reports referred to in Annexure # of this Undertaking may be held with this Undertaking in the public register.

Executed as an Undertaking

Executed by ACFS Port Logistics ABN: 95 603 120 047, pursuant to section 127(1) of the Corporations Act 2001 by:

Signature of Director	
Name of Director	Arthur Tzaneros
Date:	30.05.2022

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: 9.6.2022

Signed on behalf of the Department:



Planning Secretary or delegate: Ben Harrison

Date

**Appendix A: non-compliant truck route.**



## 2.8 Approved Truck Routes

The approved truck routes to and from the Project site are shown in Figure 2.4. Only these routes are to be used at all times.



Adapted from Google Maps

**Figure 2.4:** Approved Truck Routes to/from the Project Site

**Appendix C: Letter of support**