



**Planning &
Environment**
Resources Regulator

Mining Act undertaking

Undertaking to the Secretary,
Department of Planning and Environment
given for the purposes of Part 17A, Division 4B of the *Mining Act 1992*

by

NAMOI VALLEY BRICKS PTY LTD

ACN 125 186 138

ABN 14 125 186 138

Purpose

The purpose of this Mining Act enforceable undertaking is to document the undertaking given to the Secretary of the Department of Planning and Environment (**the regulator**), for the purposes of Part 17A, Division 4B of the *Mining Act 1992 (Mining Act)* in connection with a matter relating to a contravention or alleged contravention of the Mining Act.

Section A - general information

1. details of the company or individual proposing the undertaking

Name of company or individual	Namoi Valley Bricks Pty Ltd	
Registered address	37-39 Mullaley Road Gunnedah NSW 2380	
Mailing address (if different from above)	PO Box 12 Gunnedah NSW 2380	
Contact Officer	Michael Broekman	
Position	Managing Director	
Telephone	02 67420533	Mobile 0408810968
Email address	michael@nvbricks.com.au	
Legal structure	Private Company	
Type of business	Brick Manufacturer	
Commencement date of the entity	02 May 2007	

2. alleged contravention

It is alleged that, between 2 May 2007 and 15 August 2017, Namoi Valley Bricks Pty Ltd (ACN 125 186 138) mined clay/shale and structural clay from the Wilga Park clay mine without an authorisation, an offence under section 5 of the Mining Act.

3. details of the events surrounding the alleged contravention

The Wilga Park clay mine is located on land known as 'Wilga Park', which is comprised of Lot 121 DP755503, Lot 182 DP755503 and Lot 2 DP1183502.

It is alleged that Namoi Valley Bricks Pty Ltd has been the responsible entity for mining operations at the Wilga Park clay mine from 2 May 2007.

On 21 June 2012, Namoi Valley Bricks Pty Ltd lodged Mining Lease Application No. 429 for the scheduled minerals clay/shale and structural clay. This application covered the three pits at the Wilga Park clay mine.

On 15 August 2017 Mining Lease 1760 (Act 1992) and Mining Lease 1761 (Act 1992) were granted in respect to this application.

It is further alleged that between 1 July 2007 and 30 June 2017, Namoi Valley Bricks Pty Ltd had extracted 147,820 tonnes of clay/shale and structural clay from the Wilga Park clay mine without a mining lease for the purposes of making bricks.

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

It is acknowledged that the regulator has alleged Namoi Valley Bricks Pty Ltd has contravened section 5 of the Mining Act in connection with the incident.

5. any rectifications made as a result of the contravention

A mining lease was applied for on 21 June 2012 and was granted on 15 August 2017.

6. an acknowledgement that the undertaking and reasons for decision will be published and publicised

Namoi Valley Bricks Pty Ltd acknowledges that the undertaking and reasons for decision will be published on the regulator's website and may be referenced in NSW Resources Regulator material.

7. a statement of ability to comply with the terms of the undertaking

Michael Broekman, managing director, gives a commitment that Namoi Valley Bricks Pty Ltd has the financial ability to comply with the terms of this enforceable undertaking.

8. statement regarding relations with beneficiaries

Namoi Valley Bricks Pty Ltd acknowledges that there are no known current relationships with any of the beneficiaries outlined in the enforceable undertaking.

In particular, Namoi Valley Bricks Pty Ltd gives a commitment that no person involved with or employed by Namoi Valley Bricks Pty Ltd will receive a direct financial or other direct benefit from the donation to the Gunnedah Community Scholarship Fund administered and held by Gunnedah Shire Council.

9. intellectual property licence

Namoi Valley Bricks Pty Ltd 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 materials developed as a result of this undertaking.

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

Namoi Valley Bricks Pty Ltd acknowledges that responsibility for demonstrating compliance with this enforceable undertaking rests with Namoi Valley Bricks Pty Ltd who have given this enforceable undertaking. Evidence to demonstrate compliance with the terms will be provided to the regulator by the due date for the enforceable term.

Namoi Valley Bricks Pty Ltd 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 organisations who have given this enforceable undertaking until advised by the regulator that the enforceable undertaking has been completely discharged.

Namoi Valley Bricks Pty Ltd 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.

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

Namoi Valley Bricks Pty Ltd commits that the behaviour that led to the alleged contravention has ceased and will not reoccur.

Section B – enforceable terms

Pursuant to Division 4B of Part 17 of the *Mining Act 1992*, Namoi Valley Bricks Pty Ltd has committed to the following enforceable terms.

1. Strategies that will deliver community benefits

Namoi Valley Bricks Pty Ltd will donate \$10,000 to the Gunnedah Community Scholarship Fund administered and held by the Gunnedah Shire Council. The Gunnedah Community Scholarship Fund is an initiative of the local community and provides an opportunity for local youth to succeed in their tertiary education by encouraging students to embark on a journey of lifelong learning by financially supporting those moving on to pursue tertiary studies.

Gunnedah Shire Council has given written assurance that it will accept the donation and commits to ensuring the funds will only be used to support the Gunnedah Community Scholarship Fund.

The donation of \$10,000 will be paid in full within **90 days** of receiving notification from the regulator of the acceptance of the enforceable undertaking.

2. Payment of royalties and authorisation fees

Namoi Valley Bricks Pty Ltd must pay the Department of Planning and Environment (**the Department**) the agreed amounts for royalties, rents and levies for alleged mining undertaken on the Wilga Park clay mine between 2 May 2007 and 15 August 2017, as itemised below, and acknowledges that payment is due **30 days** from the date the Department's invoices:

<input checked="" type="checkbox"/> Royalties (2007 – 2017)	\$51,737
<input checked="" type="checkbox"/> Administrative levies (2012 - 2017)	\$ 1,000
<input checked="" type="checkbox"/> Rental fees (2012 - 2017)	\$ 1,000

Total amount **\$53,737**

3. Reimbursement of the regulator's agreed costs associated with this enforceable undertaking

Namoi Valley Bricks Pty Ltd must pay the regulator's recoverable costs associated with the undertaking, as itemised below, and acknowledges that payment is due **30 days** from the date of the Department's invoice:

<input checked="" type="checkbox"/> investigative, legal and administrative costs	\$ 5,000
<input checked="" type="checkbox"/> compliance monitoring costs	\$ 3,000

Total amount **\$ 8,000**

4. Minimum spend

Namoi Valley Bricks Pty Ltd must spend a minimum of \$71,737.00 excluding GST, in carrying out its obligations as set out in this enforceable undertaking, inclusive of the regulator's recoverable costs.

Namoi Valley Bricks Pty Ltd acknowledges the minimum spend comprises of:

Activities to deliver	Total estimated cost, excluding GST
Benefits to community	\$10,000
Royalties and authorisation fees	\$53,737
Regulator recoverable costs	\$ 8,000
Estimated total value of the undertaking	\$71,737

5. Timeframe for delivery

The strategies, obligations and enforceable terms set out in this enforceable undertaking must be completed by Namoi Valley Bricks Pty Ltd on or before the timeframes specified above following acceptance of this enforceable undertaking by the regulator.

Section C - Offer of undertaking

BY A CORPORATION

As a duly appointed and authorised officer or agent of
Namoi Valley Bricks Pty Ltd

I offer this undertaking and commit
Namoi Valley Bricks Pty Ltd to the terms herein.

Signed: 

Name: Michael Gerard Broekman

Position: Director

Dated at Gunnedah this

8 day of APRIL, 2019.

Signed: 

Name: Tanya Maria Palmer

Position: Company Secretary

Dated at Gunnedah this

8 day of April, 2019.

Section D – Regulator’s acceptance of undertaking

I accept this undertaking as an enforceable undertaking under section 378ZFB of the *Mining Act 1992*.

Signed: 

Position: A/Deputy Secretary delegate of the Secretary,

Department of Planning and Environment

Dated at Newcastle this 14th day of April, 2019.

