

**Undertaking to the Secretary
of the
Department**

TAHMOOR COAL PTY LTD

ACN 076 663 968

**Given for the purposes of
section 378ZFB of the Mining
Act 1992
(NSW)**

Details

Date 2018

Contact details

Name **Tahmoor Coal Pty Ltd** ACN 076 663 968
Short form name **Tahmoor**
Notice details 2975 Remembrance Drive Tahmoor NSW 2573

Email [REDACTED]
Attention: Ron Bush – Environment & Community Manager

Background

- A The Resources Regulator within the NSW Department of Planning and Environment (**Department**) has responsibility for the administration and enforcement of the *Mining Act* 1992 (NSW) (**Mining Act**) and associated regulations.
- B The Tahmoor Mine is an underground hard coking coal mine located approximately 75km southwest of Sydney, NSW and is operated by Tahmoor, a subsidiary of SIMEC Mining (**Tahmoor Mine**). Tahmoor Coal Pty Ltd is the holder of CCL716, ML1308, ML1376, ML1539 and ML1642 granted under the Mining Act.
- C On 25 February 2016, following an investigation into Tahmoor's compliance with certain requirements under its Mine Operations Plan, the Department issued Tahmoor with a direction under section 240 of the Mining Act requiring Tahmoor to undertake certain drainage works to the Reject Emplacement Area within CCL716 (**REA Direction**).
- D On 4 August 2017, the Resources Regulator within the Department issued Tahmoor with a notice under section 248L(2) of the Mining Act requiring Tahmoor to nominate a Corporate Representative to answer questions in relation to an alleged breach of s.240C of the Mining Act for failure to comply with the REA Direction (**Alleged Breach**).
- E As an alternative to separate compliance action being pursued by the Department in relation to the Alleged Breach, the Secretary of the Department (**Secretary**) may accept a written undertaking given by a person in connection with a matter relating to a contravention or alleged contravention of the Mining Act by the person pursuant to section 378ZFB of the Mining Act.
- F Tahmoor acknowledges the Department's concerns in relation to the Alleged Breach and has prepared this enforceable undertaking to address the alleged conduct that led to the Alleged Breach and prevent such alleged conduct from occurring again.
- G Tahmoor has completed the majority of the drainage works required by the REA direction and will complete the remainder of the works by 30 June 2018.

- H Tahmoor has offered, and the Secretary has accepted, the commitments set out in this enforceable undertaking.
- I This enforceable undertaking has been prepared in accordance with, and satisfies the specific requirements for an undertaking contained in, the Guideline Enforceable Undertakings prepared by the Department dated February 2017.

Agreed terms

1.1 Undertakings

Under section 378ZFB of the Mining Act, Tahmoor has given and the Secretary has accepted the following undertakings and both parties acknowledge that, as per sub section (2) of section 378ZFB of the Mining Act, the giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

1.2 Acknowledgment of contravention

Tahmoor acknowledges that the Department alleges that Tahmoor has failed to comply with the requirements of the REA Direction in contravention of s.240C of the Mining Act.

1.3 Prevention of future incidents

Tahmoor undertakes to:

- (a) Complete the remainder of the works required under the REA Direction by 30 June 2018;
- (b) Conduct training of all of its seven (7) Environment and Community staff (including Manager) regarding compliance with statutory notices;
- (c) Update its induction training to ensure all new staff are made aware of their obligations regarding compliance with statutory notices;
- (d) Implement a management system requiring all statutory notices to be brought to the attention of the Operations Manager;
- (e) Without limitation, ensure that information lodged with the Department in response to statutory notices has been thoroughly checked for compliance with the requirements of the statutory notice by the relevant Tahmoor manager on each occasion; and
- (f) Report to the Department on the implementation of each of the above measures within 3 months of the date of this agreement.

1.4 Financial

- (a) Tahmoor undertakes to make the financial contribution to Wollondilly Shire Council towards weed control, signage, litter reduction and vegetation management of Douglas Park causeway at Douglas Park set out in Annexure A, up to a total amount of \$40,000.

- (b) Tahmoor undertakes to pay the Department's investigation costs totalling \$10,000 (excluding GST) incurred in the course of the Department's investigation into the Alleged Breach, including the costs of reviewing this undertaking.
- (c) Tahmoor agrees to reimburse the Department for its reasonable costs incurred in monitoring compliance with this undertaking totalling \$3,000 (excluding GST).
- (d) Tahmoor undertakes to pay the Department the amounts due under this clause 1.4 within 30 days of being issued with a valid invoice from the Department.

1.5 Persons Responsible

- (a) Tahmoor nominates its Environment & Community Manager, Ron Bush, as the contact officer responsible for monitoring and complying with this undertaking. The contact officer will report to the Department in accordance with the reporting requirements outlined in clause 1.5(b)(ii) below.
- (b) Ron Bush, Tahmoor's Environment & Community Manager (or such replacement person at an equivalent level of seniority nominated by Tahmoor to the Department in writing from time to time);
 - (i) will be responsible for monitoring and ensuring Tahmoor's compliance with this undertaking; and
 - (ii) will submit a written status report, setting out Tahmoor progress with the undertaking given in Annexure A every 3 months (until such time as the final report has been provided to the Department on fulfilment of all of Tahmoor's obligations under Annexure A).
- (c) David Muxlow, Team Leader – Regulatory Investigations, Resources Regulator (or such replacement person nominated by the Department to Tahmoor in writing from time to time) will be the Departmental officer to whom information or documents will be submitted by Tahmoor in connection with this undertaking.

2 Acknowledgements

- (a) Tahmoor acknowledges that:
 - (i) this undertaking may be published on the Department's website and may be referred in the Department's publications;
 - (ii) a public notice of this undertaking may be publicised in newspapers and other media as determined by the Department; and
 - (iii) this undertaking grants the Department a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any written materials developed directly as a result of the undertaking.
- (b) Tahmoor acknowledges that the Secretary's acceptance of this undertaking only relates to the Department's concerns regarding the Alleged Breach and does not affect the Department's power to investigate a contravention arising from other future conduct unrelated to the Alleged Breach or pursue a criminal prosecution, or to lay charges or exercise other civil or regulatory powers under the Mining Act, in relation to such future conduct.
- (c) Tahmoor acknowledges that this undertaking does not affect the rights or remedies available to any other person or entity, other than Tahmoor and the Department (including any successors in title), nor does it affect any other statutory obligations

(other than those statutory obligations connected with the Alleged Breach) under the Mining Act.

- (d) Tahmoor acknowledges that this undertaking takes effect and becomes enforceable when the Secretary's decision to accept the undertaking is given to Tahmoor or at such later date specified by the Secretary.
- (e) Tahmoor acknowledges that this undertaking may only be varied in accordance with the Mining Act.
- (f) Tahmoor acknowledges that this undertaking, as varied from time to time, will remain in force until withdrawn in accordance with the Mining Act.


Signing page

EXECUTED as an agreement.

ACCEPTED by TAHMOOR COAL PTY LTD in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:


Signature of director

RAJEEV GANDHI
Name of director (block letters)



Signature of director/company secretary*

*delete whichever is not applicable
Robert Evans
Name of director/company secretary* (block letters)
*delete whichever is not applicable

ACCEPTED BY THE SECRETARY OF THE NSW DEPARTMENT OF PLANNING AND ENVIRONMENT PURSUANT TO SECTION 378ZFB OF THE MINING ACT.

Lee Shearer
Name of the Secretary (block letters)

Deputy Secretary Resources Regulator
Title of the Secretary (block letters)


Signature

Date: 18.6.2018

Annexure A

Tahmoor has done, or undertaken to do, the following (as indicated below) to a maximum value of \$40,000.

Program	Outline of Program	Completion date
Tahmoor contribution to weed control, signage, litter reduction and vegetation management of Douglas Park causeway at Douglas Park.	\$40,000 project contribution to Wollondilly Shire Council towards the weed control, signage, litter reduction and vegetation management of Douglas Park causeway at Douglas Park as set out in the attached submission.	<p>Within three (3) months of this undertaking taking effect in accordance with clause 2(d) Tahmoor will provide the Department evidence that payment has been made.</p> <p>The project is expected to commence in May 2018 and complete in December 2018.</p>
Conduct training for Environmental and Community Staff (including Manager) regarding compliance with statutory notices	Tahmoor to conduct training of all of its seven (7) Environment and Community staff (including Manager) regarding compliance with statutory notices;	<p>Within three (3) months of this undertaking taking effect in accordance with clause 2(d) Tahmoor will report the findings of this training to the Department. The information is to include;</p> <ul style="list-style-type: none"> - Date of training, - Evidence of who attended the training, - Evidence of who conducted the training, - Details on what training was undertaken (such as copy of powerpoint presentation and copies of handouts etc)
Induction training	Tahmoor will update its induction training to ensure all new staff are made aware their obligations regarding compliance with statutory notices	<p>Within three (3) months of this undertaking taking effect in accordance with clause 2(d) Tahmoor will provide to the Department;</p> <ul style="list-style-type: none"> - A copy of the updated induction package.
Update Management systems on being issued with statutory notices	Tahmoor will implement systems to ensure that all statutory notices are brought to the attention of the General Manager and that compliance with those notices including any response of information or records to the Department is thoroughly checked for compliance with the requirements of the statutory notice.	<p>Within three (3) months of this undertaking taking effect in accordance with clause 2(d) Tahmoor will provide to the Department;</p> <ul style="list-style-type: none"> - Copies of any memos, records, policies or procedure confirming the update in systems and processes.