

1/08/2024

WHS undertaking

Undertaking to the Secretary, Department of Primary Industries and Regional Development,
given for the proposes of Part 11 of the WHS Act

By

Clarence Coal Pty Ltd

ACN: 083 465 212

ABN: 53 083 465 212

Section A – general information

1. Details of the company or individual proposing the undertaking			
Name of company or individual	Clarence Coal Pty Ltd		
Registered address:	Level 20, 1 Market Street, Sydney NSW 2000		
Mailing address (if different from above)			
Telephone	██████████	Mobile	
Email address	██		
Legal structure	Australian proprietary company, limited by shares		
Type of business	Coal mine operator of the Clarence Colliery		
Commencement date of the entity	20 July 1998		
Workers	Full time: 240	Part time:	Other:
Products and services	Coal		
Comments			

2. The details of the alleged contravention

It is alleged that on 2 November 2021, at the Clarence Coal Pty Ltd (**Clarence Coal**) Clarence Colliery (the **Mine**), Clarence Coal, being a person conducting a business or undertaking failed to discharge its obligations under section 19(1) of the Work Health and Safety Act 2011 (NSW) (the **WHS Act**) to ensure, so far as is reasonably practicable, the health and safety of workers at the Mine while the workers were at work in the business or undertaking conducted by Clarence Coal. It is also alleged that Clarence Coal breached clause 128(1)(b) of the Work Health and Safety (Mines and Petroleum Sites) Regulation of 2014.

3. The details of the events surrounding the alleged contravention eg incident details

At about 3.25am on Tuesday, 2 November 2021, three workers, a continuous miner (**CM**) operator (using a remote control), a mechanical tradesperson (**Fitter**) and a breaker line support (**BLS**) operator, were standing in the control zone in front of one of three BLS supports. They were extracting coal, in the 818A Panel, using the CM at the time of the incident. A cracking sound was heard from the roof above, immediately after which the roof ply material fell and struck the CM operator and fitter.

The BLS operator was moving towards BLS No 2 and was not struck. The two injured workers were transported by helicopter to Sydney hospitals.

4. An acknowledgement that the Resources Regulator alleged a contravention has occurred

It is acknowledged that the Resources Regulator has alleged that Clarence Coal contravened the WHS Act in respect of the Incident.

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

Two employees were struck by the falling roof material in a roof ply fall event, resulting in serious injuries to both.

██

██

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
2 November 2021	Section 198	NTCE0009225	Non-disturbance of scene	Complied with directions in notice
3 November 2021	Section 195	NTCE0009238	Prohibition of activity	Complied with directions in notice
3 November 2021	Section 171	211103 CCPL TS 01	Produce documents referred to schedule and collected at Clarence Mine	Documents provided as requested
5 November 2021	Section 155	211105 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
18 November 2021	Section 155	211118 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
13 December 2021	Section 155	211213 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
11 February 2022	Section 155	220211 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
14 February 2022	Section 155	220214 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
8 April 2022	Section 155	220408 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
20 May 2022	Section 155	220520 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
12 September 2022	Section 155	220912 CCPL TS001	Notice to give information and produce documents to the Department of Planning	Information provided as requested

			and Environment (the Resources Regulator)	
19 March 2023	Section 155	230319 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
27 May 2023	Section 155	230527 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
23 June 2023	Section 155	230623 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
6 July 2023	Section 155	230706 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
18 July 2023	Section 155	230718 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
23 August 2023	Section 155	230823 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested
27 August 2023	Section 155	230827 CCPL TS001	Notice to give information and produce documents to the Department of Planning and Environment (the Resources Regulator)	Information provided as requested

7. A statement of assurance about future work, health and safety behaviour

Clarence Coal 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.

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)

Clarence Coal works closely with Coal Mines Insurance to co-ordinate all aspects of managing an injured employee to ensure the employees receive the best possible care to assist their recovery and return to work.

The injured employees received weekly compensation payments and the payment of their medical expenses and rehabilitation services.

The CM Operator was supported through his recovery and has moved onto other employment. The Fitter was supported through his recovery, and, after initially returning to work at the mine, has subsequently continued his career elsewhere in the coal mining industry.

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

Support provided to the injured person(s) family

Date	Description of support	Comment
	Clarence Coal worked with Coal Mines Insurance to ensure the employees received the best possible care, as set out above, to assist their recovery.	

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

In 2021, Clarence Coal's Safety Management System (**SMS**) provided a framework for the management of health and safety risks at the Mine. The SMS integrates documented plans, policies and procedures required to control the health and safety risks arising from surface and underground operations at the Mine.

These plans, policies and procedures are built to meet the requirements of the WHS (Mines and Petroleum Sites) Act and Regulations and the WHS Act and Regulations. They also align with AS4801:2001 Occupational Health and Safety Management Systems - Specification with guidance for use, AS4804:2001 Occupational Health and Safety Management Systems - General guidelines on principles, systems and supporting techniques and AS/NZS ISO 31000:2009 Risk Management - Principles and guidelines.

Clarence Coal recognises that for a SMS to be effective there needs to be appropriate checks and balances in place. This requirement is driven by the Clarence Business Management Framework (**BMF**) and the then Clarence 2021 Safety Strategic Plan (**SSP**) in place at the time the incident occurred.

The Clarence Safety Strategic Plan is updated annually and outlines all planned training, education, expectations and initiatives for the year. The Clarence 2021 SSP focused on and set the standards of communications, meetings, audit and safety performance for 2021.

The risk management tools utilised by Clarence Coal to manage ground or strata failure involved the following:

- The Mine Design was developed in consultation with external geotechnical engineers, Site Safety Representatives, Mine Operations and Mine Management Team with extensive years of mining experience.

- Undertaking a risk assessment process involving the above personnel and a cross-section of the workforce at Clarence Colliery to develop the reasonably practicable steps to manage the safety of all workers at the mine.
- The development of the Clarence Ground or Strata Failure Management Plan to identify and manage foreseeable risks associated with Ground or Strata Failure. This involved the setting of safety Objectives, Targets and Performance Indicators, including review of incident reports, statutory reports, strata review meetings and results from strata audits.
- The development, implementation and training in the use of Trigger Action Response Plans (**TARPs**) to manage strata failure has evolved from the above objectives, targets and performance indicators.
- The conduct of continuous miner and Breaker Line Supports safe operating systems, developed through competency training assessments, together with the approved support rules, develops the safe work environment in the underground mining operations.

These risk management tools including the TARPs and Support Rules allow any worker to put in strata support at any time and does not prevent any worker from installing more support than is required.

The TARP 1232 was introduced on 14 February 2017 (TARP 1232) and updated as at 28 November 2019. TARP 1232 sets the design and minimum level of roof and rib support to be installed according to strata conditions. TARP 1232 is prescriptive and provides a systematic approach to applying the appropriate level of support. For example, TARP 1232 identifies additional controls for "moderate strata", where roof mesh modules are also installed with the roof bolts, in accordance with the Support Rules.

The strata management systems for the extraction operations within 818A Panel, were assessed and guided by an external geotechnical engineer, Mr David Hill at Strata2. Strata2 provided expert advice and approval of the panel design in April 2021 and conducted a pre-extraction audit of the 818A Panel, recording this in a report dated August 2021. Further, at the request of the Mine, Strata2 provided a further six geotechnical reports upon the 818A Panel from 1 September 2021 to 8 October 2021.

The SMS requires the application of the Stop, Look, Access, Manage (**SLAM**) risk assessment tool, which authorises any worker to stop any work that places themselves or others at risk of harm. The SLAM risk assessment tool is designed to be carried in the workers shirt pocket and used at the commencement of each new task.

The SMS includes additional audit mechanisms including:

- The periodic review of the Mine Strata Failure Management Plan (**MSFMP**) to ensure that its suitability, adequacy and effectiveness is maintained;
- Weekly strata audits and panel inspections conducted by the Mine's under-managers;
- Geotechnical survey and mapping of all roadways in production and subsequent extraction panels by site Geotechnical Engineer / Geologist;
- Peer review of all Geotech survey and mapping by external Geotechnical Engineer;
- Weekly Strata Meetings held by Technical Services;
- Inspections undertaken by deputies including their supervision of workers;
- Workplace inspections, schedules for such inspections are set out in the BMF. While Clarence Coal's culture is 'open door' the workplace inspections provide the Mine's management team with additional opportunities to engage with production and maintenance crews;

- Planned Task Observations (**PTOs**). The BMF identifies a focus for each PTO. The PTOs provide an opportunity for supervisors to reinforce safety elements in key areas of the Mine's operation;
- The review and consideration of previous shift reports / panel conditions;
- Daily HSEC Meetings attended by the Mine management personnel;
- Modelling and data collection of the existing rib behaviour (geotechnical);
- Site Health and Safety Representatives are offered an additional two shifts per week to undertake site inspections of the Mine and report any concerns to the Mine Manager;
- Compiling monthly operations reports. Clarence Coal's monthly operations reports capture leading and lagging safety indicators. Lag safety indicators are presented as graphs, assisting in the identification of any emerging trends. A summary is provided of any incidents including steps taken to prevent a recurrence. This provides transparency and accountability in relation to any incidents that occur.

The MSFMP provides the framework for Clarence Coal to interrogate and manage risks associated with ground or strata failure. Performance indicators such as results from strata audits and statutory reports are reviewed to measure the success of the implementation of the MSFMP. The MSFMP is periodically reviewed by Clarence Coal to ensure its suitability, adequacy and effectiveness is maintained.

After the Incident occurred, in addition to the steps outlined by the SMS, the extraction process was further audited on a daily and weekly basis. The audits included a strata audit, extraction audit and caving audit. These audits were considered by the Technical Services Team and advice provided to the Management Team of the Mine.

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

Within the workplace, Clarence Coal consulted with the HSEC Committee, which is made up of representatives of a cross-section of the workforce, which has recommended that a WHS Undertaking would be the preferable enforcement process as it would have a significant positive impact upon the Mine, the workers and the community, in lieu of a penalty being imposed by a court. The HSEC formed the view that the benefits that flow from the WHS Undertaking safety projects and impacts upon the community, far outweigh the enforcement measure of the payment of a fine.

Clarence Coal regularly conducts meetings with the Mining and Energy Union (**MEU**) officials about safety at the Mine. As part of this arrangement, site Health and Safety Representatives (**HSR**) are offered two shifts per month to conduct inspections on any part of the Mine, meet with the Mine manager to discuss any concerns they have and liaise with the MEU.

11. A statement of regret that the incident occurred (ie not an admission of guilt)

Clarence Coal regrets that the incident occurred.

Clarence Coal remains committed to ensuring the health and safety of workers in accordance with its obligations under the WHS Act and the WHS (Mines and Petroleum Sites) Act.

12. Any recifications made as a result of the alleged contravention

Following the Incident, the Mine stopped all work in 818A panel. An incident review and risk assessment was conducted utilising a cross-section of the workforce, followed by a review of the safety procedures and control measures, in consultation with the workforce, to ensure the safety of all personnel in the extraction operation.

While the mechanism of the roof ply fall event was atypical at the Mine, following the risk assessment, a blanket application of roof mesh was applied to all supported roadways driven in development. Infill mesh panels were then installed in planned extraction areas. When production resumed in the Panel, all personnel were instructed that the minimum level of roof support installed moving forward, was to be the moderate strata TARP level, as set out in TARP 1232, even in locations where normal roof conditions were identified.

Further, in August 2023, the Clarence Ground or Strata Failure Management Plan was again reviewed in consultation with the workforce and updated.

Also, in 2023, the HSEC Committee, together with the Mine, assessed and enhanced the 2021 Safety Strategic Plan (SSP) which set out the overall focus to increase rigour around identifying, controlling and reviewing hazards that are causing injuries and damage on site.

As part of the Mines continual improvement process, the Mine SSP has been enhanced, with the Mine now embracing the new Safety Vision Statement of "Your Safety is My Safety - Every Task, Every Time".

This Safety Vision Statement reflects the core values of health, wellbeing and safety that are reflected in the operating systems of the Mine. This safety vision statement has driven the following programs in the current Mine SSP of:

- A training map;
- Incident Command and Control Systems;
- Visible Leadership, which aims to target positive safety culture including safety mindset; and
- Situational Awareness/Inattention, adherence to standards and communication.

The activities utilised for the Visible Leadership Program include:

- Supervisor safety interactions;
- Planned task observations;
- Planned/targeted visitations; and
- Proactive audits.

The Mine determined the audit and reporting arrangements for the positive performance indicators of safety, including:

- Planned Tasks Observations;
- Proactive Audits;
- Supervisor Safety;
- Stop Look Assess Manage (SLAMS);
- Underground/Worksite Visits; and
- Visible Leadership Visits.

In the month of March 2024, the following records the results of the positive performance indicators as:

- Stop, Look, Assess and Manage (SLAM) risk assessments, Completed 2,860;
- Proactive Audits Completed 4;
- Safety Interactions Completed 81;
- Planned Task Observations Completed 77; and
- Job Safety Environment Analysis (JSEA) completed 6.

In addition, the Mine continued its Weekly Accident/Incident Review, conducted AOD Testing DS & AS, held the monthly HSEC Meeting and the Group Safety Meeting.

Further, the Mine has embraced and integrated the elements of the "**Fatal Risk Program**" into the SMS. This program identifies the fatal risks that may be present in the operating processes of the Mine and in consultation with the workforce, assesses the controls to safety manage the risk.

The Fatal Risk Program has been embraced by the Mine HSEC Committee and the local site HSR. In addition, the HSR is offered two shifts per month to undertake inspections on any part of the Mine operations and documents within the Mine SMS.

Total amount spent on rectifications \$ Please see comments below

Clarence Coal undertook a significant number of steps following the incident to consult with its workforce, industry experts and underground coal mining technicians to ensure that the appropriate measures would be implemented to manage the risk in underground coal mining. This included installation of infill mesh in active panels and elsewhere as required. Further, all new development was roof meshed together with any areas marked for extraction. The Mine's processes changed following the incident which included improving processes, additional infills, retraining, risk assessments (amended TARP), lost time and production. The additional costs for these process changes are unable to be quantified.

The Mine, in conjunction with a cross section of the workforce, undertook a further risk assessment of the controls in place to manage the risk of strata management failure. The controls, including the Strata TARP, were reviewed, assessed and amended to reflect the minimum level of roof support required. These changes and the findings from the incident investigation, were consulted and communicated to the workforce.

The personal impact of the incident upon the Mine workforce, has presented as a sobering realisation, that will not be forgotten.

Overall, the incident, time, and costs arising from the rectifications following the incident are unable to be quantified.

13. An acknowledgement that the WHS undertaking may be published and publicised

Clarence Coal acknowledges that the undertaking will be published on the Regulator's website and may be referenced in Resources Regulator material.

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

14. A statement of ability to comply with the terms of the undertaking

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

15. Statement regarding relationships with beneficiaries

There are no known current relationships with any of the beneficiaries outlined in the enforceable undertaking, other than current employees and contractors of Clarence Coal and the broader coal mining community.

16. Intellectual property licence

Clarence Coal, grant 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.

17. The company or individual may be required to provide information of any prior work health and safety convictions

The Regulator requests a list outlining details of any prior work health and safety convictions or findings of guilt under work health and safety legislation² or work health and safety related legislation.

Does Clarence Coal, have any such prior convictions or finding?

Yes No

² Subject to any local legal constraints such as spent conviction legislation

The list is attached (if applicable)

Yes No

18. A commitment to participate constructively in all compliance monitoring activities of the undertaking

Clarence Coal acknowledges that responsibility for demonstrating compliance with this enforceable undertaking rests with the organisations 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 term.

Clarence Coal 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.

Clarence Coal 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.

19. A commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

Clarence Coal commits that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence of such behaviour.

20. A commitment to the ongoing effective management of work health and safety risks

Clarence Coal commits to the ongoing effective management of work health and safety risks in accordance with the legislation and regulations referred to above.

21. Acknowledgment of WHS undertaking guidelines

I have read and understood:

Enforceable undertakings guidelines version 8 dated November 2023

Section B – enforceable terms

1. Publication of information about the undertaking

Clarence Coal, must, 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 Lithgow Mercury, the Newcastle Herald, and the Sydney Morning Herald which will be drafted using the script provided in Attachment B.

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)

Clarence Coal, must disseminate information by implementing the following:

- a) Display a summary of the WHS Undertaking on all Mine, Mine office and contractor noticeboards at the Mine for 30 days;
- b) Communicate, as far as reasonably practicable, the WHS Undertaking through toolbox talks to workers at the Mine, following acceptance; and
- c) Present the WHS undertaking to all the workforce during the State of the Nation presentation (a quarterly presentation delivered by the Mine Manager).

Dissemination by each of the above methods must occur within 30 days of receiving notification from the regulator of the acceptance of the WHS undertaking and continue at regular intervals of no more than three months throughout the life of the undertaking.

If the person is not a body corporate or a crown/public authority, please state:

3. Strategies that will deliver worker benefits

Clarence Coal is seeking to use this opportunity to assess the effectiveness of equipment used at the Mine and improve health outcomes for injured workers at the Mine. The proposal below sets out a major improvement to the transport of injured workers from the incident site to the surface of the Mine.

Underground Medical Evacuation - Smooth Ride Project

Under the current system, if the Mine has assessed that a person has suffered a medical event or an injury whilst at work in the underground operations of the Mine, they will be safely evacuated to the surface in a stretcher (stokes litter) situated in the rear of an underground transport vehicle (photographs attached).

The system in place is currently best practice within the industry as it allows personnel attending to the injured worker to travel in the vehicle attending to the patient as they are transported to the surface or pit bottom, as relevant. Stretchers are readily available to workers in the Mine as they are stored at the Crib Room in each Panel, including in emergency trailers at other assessed locations and on the surface, for access in the event of an injury or medical emergency.

The Mine operates an extensive first aid and incident response system where almost half the workforce at the mine hold first aid certification and the capacity and qualification to administer pain relief.

In addition, approximately 23 personnel are part of the Mines Rescue Brigadesmen at the Mine. The highly trained Mines Rescue Brigadesmen have completed the Coal Services Mines Rescue Brigade Course, which is a ten day intensive, competency assessed program that Brigadesmen can respond to and assess and manage any injured coal mine worker in an underground coal mine environment. The Mines Rescue Brigadesmen undertake annual retraining to remain active members at the Mine.

Clarence Coal has recently collaborated with the Special Operations Team of the NSW Ambulance to conduct a number of Mine underground exercises for the purpose of increasing the familiarity of the NSW Ambulance team members to assist and work with the Clarence Coal Mines Rescue personnel in responding to a coal mine underground incident.

Due to the inherent nature of underground roadways in an operating coal mine, the roadways suffer a number of depressions and water incursions, which requires the transport vehicle to travel at a slow and safe speed, relevant to the conditions. This project has assessed an apparatus that is suitable to provide a safe, secure and supported capsule, in the rear of the transport vehicle, which significantly reduces the impact upon the patient within the

stretcher, to provide a smooth, comfortable and pain reduced ride during transport from the incident site in the underground transport vehicle, to pit bottom and thence by rail to the surface.

The objective is to convey the patient swiftly from the underground location to the surface to then be transported further. The staff transporting injured colleagues to the surface of the Mine have to consider the benefits of swift extraction and access to emergency care at the surface against causing additional pain or exacerbating injuries during transport.

Clarence Coal is partnering with Macquarie Manufacturing Group to design and develop a patient transport support system to affix to the rear of the underground transport vehicles at the Mine. Clarence Coal have made preliminary investigations for a conceptual understanding of how to achieve this and are looking towards the cinematography industry where cameras remain reasonably free from jolting or shaking when personnel are running. The apparatus is intended to operate without a power source and to significantly reduce the transmission of the road surface through the vehicle and experienced by the injured worker. Macquarie Manufacturing will undertake conceptual development, solution engineering, trialling, and final documentation of a "Smooth Ride" project for a patient being transported to pit/drift bottom in a stretcher in a PJB or SMV underground coal mine vehicle.

4. Strategies that will deliver industry benefits

Clarence Coal recognises the importance of effective frontline leadership in maintaining the health and safety of workers throughout the industry. Supervision is a key factor in a significant portion of near misses and incidents reported at mines and Clarence Coal proposes to use this opportunity to develop a bespoke training package tailored to frontline supervision and leadership best practice within the industry to ultimately improve the health and safety prospects for workers at the Mine.

Mining Industry Safe Supervision "Best Practice" Certification Package

It is anticipated that this project will fill a distinct gap that currently exists in the statutory competency framework in the mining industry of NSW. Clarence Coal does not propose this project is a "silver bullet" solution to incident control at the supervisor level at mines in NSW but anticipates that the final training package will translate the "best practice" behaviours, which separate industry best in class, into a course for early career supervisors and deputies.

Clarence Coal understands that existing Leadership and Supervision education packages exist today but that there is no tailored frontline leadership and supervision course industry specific to mining and constructed from real mining industry "best practices".

Clarence Coal and its mining industry peers recognise the importance of supervision as a strategic control in the management of safety behaviours in mines. It is well understood that the importance of influencing safety requires learnings and training that relate to individual workers' experiences and mistakes which have led to notifiable incidents or unfavourable safety outcomes within our industry.

Current industry practice requires participation in an education and experience-based assessment and examination model, to determine the mandatory knowledge (accredited education) and work-based evidence, (experience), necessary to sit an examination or gain levels of qualification to fulfil functions listed within Schedule 10 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022. The current qualifications framework requires candidates to meet set criteria for Risk Management, Principal Hazard and Principal Control Plan based modules that are delivered by an accredited and Registered Training Organisation (RTO).

Clarence Coal is proposing to partner with Mines Rescue and Training, as part of Coal Services, or other approved RTO as the RTO to develop and implement a training package to deliver to the mining industry. This training

package will be developed in conjunction with Amidy Team Development or other similar consultancy, who will be engaged as a project facilitator.

This project is intended to increase the awareness and capability of workers who have critical supervisory roles in the mining industry and decrease industry safety incident frequency where inadequate or poor supervision types are identified as a key contributing factor. It will provide a measured process that gives workers a better understanding to bridge to supervisory roles and an opportunity for the regulator to implement tailored accreditation to mineworkers that are completing relevant prerequisite training for Statutory Functions in the mining industry.

5. Strategies that will deliver community benefits

Clarence Coal recognises the significant impact of the Incident on the community in the Lithgow Local Government Area (LGA). Clarence Coal is committed to supporting the community in which it operates.

Donation to Rural Fire Service - Can AM Defender Max Limited Vehicle.

Clarence Coal proposes to provide a donation to the Lithgow LGA Rural Fire Service, for the purpose of upgrading the rescue capabilities in the region. The Mine has consulted with Scott Hoy, District Co-Ordinator of the Chifley Lithgow Rural Fire Service and received approval for the donation of funds for the Rural Fire Service to purchase a Can AM Defender Max Limited vehicle.

The Can AM Defender Max Limited will enable the Rural Fire Service to traverse previously inaccessible terrain with equipment necessary to carry out rescue operations and hazard reduction burns that would otherwise require personnel carrying equipment on foot. The Can AM Defender Max Limited is a small offroad vehicle capable of transporting 2-4 personnel through dense vegetation that would otherwise prevent access in standard fire rescue vehicles.

To ensure the Can AM Defender Max Limited is fit for purpose, Clarence Coal have agreed to donate the funds that allows for the vehicle to be fitted with appropriate lighting, markings and radios. The donation will also include a portable charger, tie down kit and 3.5t electric brake trailer.

Donation of defibrillators to NSW Police vehicles

Clarence Coal proposes to supply defibrillators through the Lithgow Local Emergency Management Committee (LEMC) for a closed period of 24 months to police vehicles in the Lithgow LGA. It is expected that the current number of twelve police vehicles will be able to be fitted with the defibrillator units.

The mine has consulted with the LEMC and it has been assessed that whilst police vehicles are usually the first responders to a medical incident, event or road collision, the police vehicles do not contain any defibrillator units. The LEMC is of the view that a defibrillator unit within a police vehicle will provide immediate medical assistance to the Community to enhance a person's chance of survival until the emergency medical services attend.

In addition to the supply of the defibrillator units, Clarence Coal will commit to paying for the ongoing maintenance for a period of 24 months by way of an additional donation of battery packs, 12 months after delivery of the defibrillator units.

This initiative has been given verbal approval by Chris Sammut Chief Inspector OIC Lithgow, Portland & Oberon of the NSW Police Force

6. A commitment regarding the strategy and promotion of benefits to the WHS undertaking

Clarence Coal commits that it will link the promotion of any benefits arising from the WHS Undertaking and associated initiatives to the WHS Undertaking.

7. Reimbursement of the Regulator's agreed costs associated with, and any monitoring of, the enforceable undertaking

Clarence Coal must pay the Regulator's recoverable costs associated with the undertaking, as itemised below, and acknowledges that payment is due **30 days** after receipt of the Regulator's invoice:

<input checked="" type="checkbox"/> investigative, legal and administrative costs	\$ 277,608.00
<input checked="" type="checkbox"/> compliance monitoring costs	\$ 12,500.00
<input checked="" type="checkbox"/> publication costs	\$
Total amount	
Insert case, if any, for why the Regulator would not seek to recover costs	\$ 290,108.00

8. Minimum spend

Clarence Coal must spend a minimum of \$1,217,336.50, excluding GST, in carrying out its obligations as set out in this WHS undertaking, inclusive of the Regulator's recoverable costs.

Clarence Coal acknowledges the minimum spend comprises of:

Activities to deliver	Total estimated cost
Benefits to workers	\$ 404,100.00 (excl GST)
Benefits to industry	\$ 365,000.00 (excl GST)
Benefits to community	\$ 158,128.50 (excl GST)
Regulator recoverable costs	\$ 290,108.00 (excl GST)
Estimated total value of the undertaking	\$ 1,217,336.50 (excl GST)

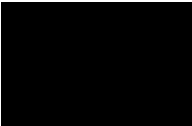



9. Project of undertaking

Where a project or projects are proposed to deliver benefits to workers, industry and community Clarence Coal offers and will carry out the projects set out in Attachment A to this WHS undertaking.

10. Timeframe for delivery

The strategies set out in this WHS undertaking must be completed by Clarence Coal on or before 24 months following acceptance of this enforceable undertaking by the Regulator.

Section C – Offer of undertaking

By an individual	By a corporation
<p>I offer this undertaking and commit to the terms herein.</p> <p>Signed:</p> <p>[Person]</p> <p>Name:</p> <p>[Print name]</p> <p>Position:</p> <p>Dated:</p>	<p>As a duly appointed and authorised officer or agent of Clarence Coal Pty Ltd</p> <p>I offer this undertaking and commit Clarence Coal Pty Ltd to the terms herein.</p> <p>Signed: </p> <p>[Director]</p> <p>Name:</p> <p>[Print name] </p> <p>Position: <u>Director</u></p> <p>Dated: <u>1 August 2024</u></p> <p>Signed: </p> <p>[Director or company secretary]</p> <p>Name:</p> <p>[Print name] </p> <p>Position: <u>Company Secretary</u></p> <p>Dated: <u>1 August 2024</u></p>

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: *P J Day*

Position: **Executive Director Resources Regulator**
delegate of the Secretary, Department of Primary Industries and Regional Development

Dated: **7 August 2024**

Attachment A

(This attachment is incorporated in and considered part of the WHS undertaking given by Clarence Coal for the purposes stated herein, and are enforceable terms given under section B of the undertaking by Clarence Coal)

Clarence Coal will undertake the following:

1. Project 1: Underground Medical Evacuation - Smooth Ride

(a) Objective

To design, develop and prototype an innovative medical evacuation patient support apparatus capable of affixing to Clarence Coal's underground transport vehicles and reducing road vibration impact experienced by injured workers in transit to the pit bottom and/or surface.

(b) Purpose

In the event of an incident resulting in injury in an underground coal operation, it is typical that underground employees will provide first response and stabilisation and then transport the injured employee to the surface to be met by NSW Ambulance. This is due to the timing of ambulance response and issues with deploying paramedics and their equipment into an underground coal mine environment.

Transport is typically provided by using normal mine personnel transport vehicle (SMV and PJB Personnel Transports) to transport the patient to the surface. The patient is secured into a Stokes Litter Stretcher which is secured into the back of the transport with purpose designed brackets carried by all personnel transport vehicles.

Clarence Coal recognises that transporting injured workers between the site of an incident and the surface of the Mine can often be painful due to the uneven surface of the Mine floor and rigidity of the stretchers placed in the brackets of the underground transport vehicles. These considerations either slow the evacuation of injured personnel to account for the discomfort or worsen the immediate condition of the injured worker in favour of rapid extraction.

Clarence Coal will engage a third-party engineering company, Macquarie Manufacturing Group, a capable company with significant experience developing and constructing solutions for problems in the underground environment, to assist with concept and design aspects as identified in the assessment. The outcome of the assessment will allow Clarence Coal to identify opportunities to improve its processes and equipment.

Clarence Coal's partner will design and develop an apparatus to achieve its Smooth Ride objective. Macquarie Manufacturing Group specialise in the design and manufacture of underground purpose-built support equipment in the mining sector. The partnership with Macquarie Manufacturing Group for the development of the support apparatus intends:

- a. To determine if fixed bracket stretchers in underground transport vehicles are the most effective means of transport for injured workers;
- b. To manage and reduce the pain, discomfort and potential aggravation of injuries, from the road conditions, during transit to the surface of the Mine; and
- c. To implement a device capable of reducing the impact of being conveyed in a stretcher, and if proven effective, to share with industry peers.

The outcome of the design and development of the Smooth Ride apparatus will allow Clarence Coal to provide a better standard of care to injured workers in the Mine and Coal Mining Industry.

(c) Deliverables

Stage 1 - Design

Using a personnel transport supplied by Clarence Coal or a similar mine to Clarence, Macquarie manufacturing will design and mock up potential solutions.

The Stage 1 deliverable will be the design outcome delivered in a manual to Clarence Coal.

Stage 2 - Prototype Manufacture

A prototype will be manufactured at the Macquarie Manufacturing Group Rathmines workshop. The Stage 2 deliverable will be a full working unit ready for trials at an underground mining operation.

Stage 3 - Minesite Trial

The Prototype will be trialled at Clarence or a similar mine to Clarence.

Stage 4 - Post Trial modifications

Based on the results of the Stage 3 Minesite Trial, minor changes will be made.

Stage 5 - Re-trial at Minesite

Further underground trialling at Clarence or a similar mine to Clarence, to take place for a further period of two weeks.

Stage 6 - Presentation

Clarence Coal will present the findings and results of the project at mining industry conferences or seminars including the Regulator's Mining Engineers Managers Safety Seminar, the Mechanical Engineering Safety Seminar and the Mine Managers Association of Australia Annual CPD Seminar. A minimum of three seminars will take place. If the above seminars do not fall within the 22-month period, then the presentation will occur at the next occurrence of the relevant seminar.

Stage 7 - Donation

Clarence will commission the production of a number of units, to a total value of \$100,000, for donation to underground mines in NSW.

(d) Timeframe

Key Task	Due
Design	Within 6 months of acceptance of WHS Undertaking
Prototype manufacture to produce Full working unit to suit selected machine, ready for installation at site for trials	Within 12 months of acceptance of WHS Undertaking
Minesite trial to be conducted over an anticipated two weeks	Within 14 months of acceptance of WHS Undertaking
Post-trial modifications as required	Within 16 months of acceptance of WHS Undertaking
Re-trial at mine site for a further two-week period	Within 18 months of acceptance of WHS Undertaking
Present findings at mining industry conferences or seminars	Within 22 months of acceptance of WHS Undertaking
Donate final products to other mines	Within 24 months of acceptance of WHS Undertaking

2. Project 2: Mining Industry Safe Supervision "Best Practice" Certification Package

(a) Objective

To engage a registered training organisation, being Coal Services' Mines Rescue and Training, or other approved registered training organisation, to work in conjunction with a consultancy (proposed to be Amidy Team

Development) to develop and deliver a bespoke Mining Industry Safe Supervision "Best Practice" Certification Package.

(b) Purpose

Clarence and its mining industry peers recognise the importance of supervision as a strategic control to improving not only business outcomes, but most importantly the management of safety and the influence of the appropriate safety behaviours.

It is recognised that the importance of influencing safety requires learnings and training that relate to individual workers' experiences and mistakes which have led to notifiable incidents within our industry.

Current industry practice requires participation in an education and experience-based assessment and examination model to determine the mandatory knowledge (accredited education) and work-based evidence, (experience), necessary to sit an examination or gain levels of qualification to fulfil functions listed within Schedule 10 of the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2022*. The current qualifications framework requires candidates to meet set criteria for Risk Management, Principal Hazard Management and Principal Control Plan based modules that are delivered by an accredited Registered Training Organisation (**RTO**).

This project is intended to create a mining industry focused "Best Practice" Supervisor training package that tailors the mining industry expectations for improved consistency in supervisory roles, when it comes to matters of health and safety of the entire mining workforce.

(c) Deliverables

Stage 1 Facilitator Engagement and Literature Review

Clarence will consult with relevant stakeholders, including Coal Services' Mines Rescue, other mine operators and Amidy Team Development, to prepare an initial understanding of today's best practice supervisor and engage an appropriate RTO and project facilitator.

The Stage 1 deliverable will be a literature review of industry specific role of team leader, deputy and supervisory best practices, to identify the key components of today's best practice supervisor.

Stage 2 Industry Roundtables

Clarence will arrange mining industry specific discussions to engage representatives from the Mine Operators, Resources Regulator and Mineworker ranks to participate in an in-person round-table conference, with the aim of building an informed best practice target outcome for the final training package.

The Stage 2 deliverable will be the drafting of a training package roadmap which will be provided to Coal Services or other approved RTO for completion as the RTO.

Stage 3 Draft Modules and Test Pilot Group

Clarence will work with the RTO and facilitator to prepare training modules for delivery to a pilot test group, which will initially include approximately 25 frontline leaders at Clarence.

The Stage 3 Deliverable will be a report provided by the project facilitator detailing outcomes of the training package delivery to the pilot test group.

Stage 4 Package Approval and Rollout to Mines

Clarence, the RTO and project facilitator will implement findings from the Stage 3 test group to develop a final product for delivery across mine sites in the industry.

The Stage 4 deliverable will be a revised and final training package based on feedback and learnings from the pilot test group.

Stage 5 Presentation of findings at mining industry conferences

Clarence Coal will present the findings and results of the project at mining industry conferences or seminars, presenting at a minimum of two events.

(d) Timeframe

Key Task	Due
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Facilitator engagement and literature review	Within 6 months of acceptance of WHS Undertaking
3 x Industry Round tables and road map	Within 12 months of acceptance of WHS Undertaking
Draft modules developed and test pilot group	Within 18 months of acceptance of WHS Undertaking
Final Package handed to Resources Regulator for approval	Within 22 months of acceptance of WHS Undertaking
Present findings at mining industry conferences or seminars	Within 24 months of acceptance of WHS Undertaking

3. Project 3: Donation to Rural Fire Service - Can AM Defender Max Limited Fire Services Vehicle

(a) Objective

To donate funds to the NSW Rural Fire Service for the purchase of a Can AM Defender Max Limited as an additional active vehicle for the Rural Fire Service for active service in the Lithgow Local Government Area along with additional equipment to be used by the Rural Fire Service for the purposes of emergency rescue and/or training.

(b) Purpose

The Rural Fire Service operating in Lithgow LGA have identified a need for an emergency service vehicle capable of traversing terrain inaccessible to standard fire and rescue vehicles. At present, Rural Fire Service does not have access to a vehicle capable of transporting personnel through dense forest and mountainous regions. The Can AM Defender Max Limited will enhance the capability and allow Rural Fire Service personnel to navigate greater distances on the ground, more efficiently.

Can AM manufacture and supply offroad emergency vehicles designed for fire response and emergency services, search and rescue operations. The smaller size and enhanced offroad capabilities of the vehicle are intended to expand Rural Fire Service's fire hazard reduction burns and support rescue capabilities in difficult to reach environments.

The Rural Fire Service operating in Lithgow LGA have also identified a need equipment for use in emergency rescue and/or training.

(c) Deliverables

Clarence Coal has been advised by the Rural Fire Service NSW that a donation of the Can AM Defender Max Limited and Rural Fire Service fit outs of equivalent value to \$81,300.00 will greatly assist undertaking emergency rescue operations in the Lithgow LGA, as will the donation of \$47,833.50 worth of equipment to be used for emergency rescue and/or training. Clarence Coal will effect the donation to the Rural Fire Service for the supply of the Defender Max Limited and the additional equipment to the Rural Fire Service within four months of acceptance of the WHS Undertaking.

Clarence Coal proposes to donate the funds for the Can AM Defender Max Limited with appropriate fit outs including:

- Emergency lighting;
- Hi-Vis Markings;
- CB and Fireground GRN Radios;
- Portable Charger;
- Tie Down Kit; and
- 3.5t electric brake trailer.

(d) Timeframe

Key Task	Due
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Donation of funds to the Rural Fire Service for the purchase of the Can AM Defender Max Limited to the for use by the Rural Fire Service and of equipment to be used for emergency rescue and/or training, of \$129,133.50 total value	Within 4 months of acceptance of WHS Undertaking
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4. Project 4: Donation to LEMC for provision of defibrillators in emergency police vehicles in Lithgow LGA

(a) Objective

To donate defibrillators and battery packs to support a period of twenty-four months of maintenance, to be fitted in police vehicles in the Lithgow Local Government Area.

(b) Purpose

The LEMC has assessed that whilst police vehicles are usually the first responders to a medical incident, event or road collision, police vehicles do not contain defibrillator units. The LEMC is of the view that a defibrillator unit within a police vehicle will provide immediate medical assistance to the Community to enhance a person's chance of survival until the medical services attend.

At present, none of the 12 police vehicles in the Lithgow LGA are fitted with defibrillators. Access to the devices will allow trained members of staff to provide essential emergency care before an ambulance can arrive in the event of a medical emergency.

(c) Deliverables

The LEMC cannot receive a financial donation to support the supply of defibrillators but can receive the units themselves for installation in police vehicles.

Clarence Coal has received a quote to supply the defibrillators in secure cases for \$2116.25 per unit.

Clarence Coal will supply an additional battery pack for each defibrillator unit donated to the LEMC after 12 months, for approximately \$300 per unit.

(d) Timeframe

Key Task	Due
Donation of defibrillators to the LEMC equivalent value to (\$25,395.00)	Within 4 months of acceptance of WHS Undertaking
Donation of batteries to the LEMC of equivalent value to (\$3,600.00)	Within 16 months of acceptance of WHS Undertaking

5. Costs

Clarence Coal agrees to pay the following minimum amounts as tabled in relation to each project identified.

Project	Cost \$
Project 1: Underground Medical Evacuation - Smooth Ride Macquarie Manufacturing will undertake the design, prototype manufacturing and trailing of a Smooth Ride Unit, at a cost of \$304,100.00 which includes: Design of the Smooth Ride Unit - \$209,000.00 Prototype Manufacturing - \$37,500.00 Mine Site Trial - \$20,400.00 Post-trial Modifications - \$22,000.00 Re-trial at Mine Site - \$15,200.00 Clarence Coal to commission the production of a number of Smooth Ride units to the value of \$100,000.00 to donate to underground mines in NSW.	\$404,100.00

Project 2: Mining Industry Safe Supervision "Best Practice" Certification Package Project Facilitator - \$180,000.00 Three Industry Round Table Conferences - \$50,000.00 Training Module Development - Coal Services or other RTO - \$110,000.00 Legal Assessment and Presentation - \$25,000.00	\$365,000.00
Project 3: Donation to Rural Fire Service - Can AM Defender Max Vehicle and Equipment	\$129,133.50
Project 4: Donation to Local Emergency Management Committee	\$28,995.00
Total Minimum Cost	\$927,228.50

6. Project Management Team

The Mine has assembled a "Project Committee" that comprises of a cross section of roles specific to each area that is required to manage each of the Project elements:

- Clarence Coal Mine Manager.
- Clarence Coal Engineering Manager
- Clarence Coal Compliance Manager
- Clarence Coal Health, Safety and Compliance Manager
- Clarence Coal Site Health, Safety Representative

Overall responsibility for the Project will be allocated to the Clarence Coal Mine Manager

The Compliance Manager will act as the Project Committee Chairperson and is responsible for organising Project Committee meetings, allocating actions, and tracking overall progress of each element of the projects.

Each person on the Project Committee will have responsibilities to manage the relevant parts as allocated to them by the Project committee.

The Project committee will meet on a monthly basis as a minimum, this may vary dependent on the status of the project. The business Improvement Manager will be responsible for scheduling meetings as required.

Any external resources, for example training providers, will be organised through the Project Committee and scheduled by the person responsible for the project.

List of any prior work health and safety convictions or findings of guilt under work health and safety legislation

1. **Citation:** *Morrison v Clarence Coal Pty Ltd and Centennial Coal Company Limited* [2007] NSWIRComm 270.

Date of judgement (sentencing hearing): 30 November 2007.

Date of incident: 12 July 2004.

Provision breached: s 8(1) *Occupational Health and Safety Act 2000* (NSW) (**OHS Act**) Clarence Coal Pty Ltd and s 8(2) OHS Act Centennial Coal Company Limited.

Orders: Each defendant was fined \$80,000 and required to each pay half of the prosecutor's (Department of Primary Industries) costs.

Photographs referred to at Section B paragraph 3:





