



**Regional
NSW**

Mining Act undertaking

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

by

Hi-Quality Quarry (NSW) Pty Ltd
ACN 104 362 110
ABN 95 104 362 110



Mining Act undertaking

Purpose

The purpose of this Mining Act undertaking is to document the undertaking given to the Secretary of the Department of Regional NSW (**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	Hi-Quality Quarry (NSW) Pty Ltd
Registered address	19 Lachlan Avenue Sylvania Waters NSW 2224
Mailing address (if different from above)	PO Box 42 Kemps Creek NSW 2178
Contact Officer	Ron Bush
Position	General Manager – Development & Environment
Telephone	
Email address	
Legal structure	Private company
Type of business	Mining and quarrying
Commencement date of the entity	09/04/2003

2. alleged contravention

It is alleged that from 17 October 2012 Hi-Quality Quarry (NSW) Pty Ltd (ACN 104 362 110) mined clay/shale and structural clay from the Kemps Creek Central Shale Mine without authorisation that is an offence under Section 5 of the *Mining Act*.

3. details of the events surrounding the alleged contravention

The Kemps Creek Central Shale Mine is located on the Kemps Creek Central property comprised of Lot 1 DP1212980 and Lot 10 DP1087346.

Hi-Quality Quarry (NSW) Pty Ltd has been the responsible entity for this site since 31 March 2006 and responsible for the mining operations at the Kemps Creek Central Shale Mine since 17 October 2012.

The Kemps Creek Central property is owned by Tranteret Pty Ltd, which shares the common sole Director/Secretary, being Mr Patrick Hallinan, with Hi-Quality Quarry (NSW) Pty Ltd. Tranteret Pty Ltd is the private mineral owner for the clay/shale and structural clay mined at the Kemps Creek Central Shale Mine. It is intended that upon grant of Mining Lease Application No. 572 the private mineral owner (Tranteret Pty Ltd) and the Mining Lease applicant (Hi-Quality Quarry (NSW) Pty Ltd) will enter into an agreement at nil rate of royalty pursuant to Section 285(b) of the *Mining Act*, so no royalty is payable.

On 11 September 2019, Hi-Quality Quarry (NSW) Pty Ltd lodged MLA572 for the scheduled minerals clay/shale and structural clay. MLA572 is subject to grant.

It is alleged that since 17 October 2012, Hi-Quality Quarry (NSW) Pty Ltd had extracted 368,945 tonnes of clay/shale and structural clay from the Kemps Creek Central Shale Mine without a mining lease, which has been sold as a raw material for brickmaking purposes.

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

It is acknowledged that the Regulator has alleged Hi-Quality Quarry (NSW) Pty Ltd has contravened Section 5 of the *Mining Act* in connection with the alleged contravention.

5. any rectifications made as a result of the contravention

A Mining Lease (MLA572) was applied for on 11 September 2019 and is subject to grant.

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

Hi-Quality Quarry (NSW) 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

Hi-Quality Quarry (NSW) Pty Ltd has the financial ability to comply with the terms of this enforceable undertaking and have provided evidence with this enforceable undertaking to support this declaration.

8. statement regarding relations with beneficiaries

Hi-Quality Quarry (NSW) Pty Ltd acknowledge that there are no known current relationships with any of the beneficiaries outlined within the Enforceable Undertaking.

Hi-Quality Quarry (NSW) Pty Ltd gives a commitment that no person involved or employed by Hi-Quality Quarry (NSW) Pty Ltd will receive a direct financial benefit from the donation to Penrith City Council.

9. intellectual property licence

Hi-Quality Quarry (NSW) Pty Ltd 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 materials developed as a result of this undertaking.

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

Hi-Quality Quarry (NSW) Pty Ltd acknowledges that responsibility for demonstrating compliance with this enforceable undertaking rests with the Hi-Quality Quarry (NSW) 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 term.

Hi-Quality Quarry (NSW) 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.

Hi-Quality Quarry (NSW) 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

Hi-Quality Quarry (NSW) Pty Ltd commits that the behaviour that led to the alleged contravention has ceased and will not reoccur following the grant of the Mining Lease. Mining and extraction of clay/shale on the site has ceased and will not recommence until MLA572 is granted. Clay/shale material that is processed and contained within stockpiles maybe used.

12. acknowledgement of enforceable undertaking guidelines

Hi-Quality Quarry (NSW) Pty Ltd have read and understood:

NSW Resources Regulator Enforceable Undertaking Guidelines version August 2020

Section B – enforceable terms

Pursuant to Division 4B of Part 17 of the *Mining Act 1992*, Hi-Quality Quarry (NSW) Pty Ltd has committed to the following enforceable terms.

1. Strategies that will deliver benefits community benefits

Hi-Quality Quarry (NSW) Pty Ltd will donate **\$20,000** to Penrith City Council for the Strategic Bushland Regeneration Project (Regent Honeyeater Recovery).

Penrith City Council has given written assurance that it will accept the donation and commits to ensuring that the funds will only be used for Strategic Bushland Regeneration Project (Regent Honeyeater Recovery).

The donation of **\$20,000** will be paid in full within 30 days of receiving notification from the Regulator of the acceptable of the Enforceable Undertaking.

2. Strategies that will deliver industry benefits in relation to management of the title

Hi-Quality Quarry (NSW) Pty Ltd will within three (3) months of receiving notification from the Regulator of the acceptable of the Enforceable Undertaking, conduct training by an appropriate legal practitioner of Hi-Quality Quarry (NSW) Pty Ltd environmental staff and senior managers regarding compliance with the requirements of the *Mining Act*, at a minimum spend of **\$2,500**.

3. Payment of authorisation fees

Hi-Quality Quarry (NSW) Pty Ltd will pay the Department of Regional NSW (**the Department**) the agreed amounts for authorisation rent and administration levies for the period from 17 October 2012.

- Royalty payable under Section 284(2) - \$16,141
- Administration levies (2012 – 2020) - \$25,714
- Rental fees (2012 – 2020) - \$336

Total amount - \$42,191

Hi-Quality Quarry (NSW) Pty Ltd acknowledges that payment is due 30 days from the date of the Department's invoice.

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

Hi-Quality Quarry (NSW) Pty Ltd must pay the regulators recoverable costs associated with the undertaking, including investigation, legal and administration costs and compliance monitoring costs and acknowledges that payment is due 30 days after receipt of the regulator's invoice.

- Investigation, legal and administration costs - \$5,000
- Compliance monitoring costs - \$3,000

Total Amount - \$,8000

5. Minimum spend

Hi-Quality Quarry (NSW) Pty Ltd must spend a minimum of \$72,691, excluding GST, in carrying out its undertakings in this enforceable undertaking, inclusive of the regulator's recoverable costs.

Hi-Quality Quarry (NSW) Pty Ltd acknowledges the minimum spend comprises of:

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Activities to deliver	Total estimated cost, excluding GST
Benefits to community	\$20,000
Benefits in relation to the management of the title	\$2,500
Payment of authorisation rent and levies	\$42,191
Regulator recoverable costs	\$8,000
Estimated total value of the undertaking	\$72,691

6. Project of undertaking

Where a project or projects are proposed to deliver benefits in relation to the management of the title, industry and community Hi-Quality Quarry (NSW) Pty Ltd offers and commits to carry out the projects set out in Attachment 1 as described in the attachment to this enforceable undertaking.

7. Timeframe for delivery

The activities to deliver the benefits of this enforceable undertaking must be completed on or before 31 December 2021 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 Hi-Quality Quarry (NSW) Pty Ltd I offer this undertaking and commit Hi-Quality Quarry (NSW) Pty Ltd to the terms herein.

Signed: *P. Hallinan*

Name: Patrick Hallinan

Position: Sole Director and Secretary

Dated at Kempas Creek this

... *24* day of ... *May*, 2021

Section D – Regulator’s acceptance of undertaking

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

Signed: *[Signature]* Anthony Keon

Position: **Executive Director** delegate of the Secretary,
Department of Planning and Environment

Dated at **Maitland** this **17th** day of **June**, 20**21**

