

Application for proposed ENFORCEABLE VOLUNTARY UNDERTAKING

Made pursuant to section 74AA of the *Mining Act 1971*

The commitments in this enforceable voluntary undertaking are offered to the Minister by

SA CRUSHING & MINERALS

ACN 647 167 100

SECTION 1: GENERAL INFORMATION

1.1 Introduction

The information provided in this document is for the purpose of an undertaking given to the Minister under s74AA of the *Mining Act 1971 SA* (the Act). The commitments within this EVU are offered to the Minister as an alternative to prosecution before Court. The terms of an accepted enforceable undertaking are a matter of public record.

When an enforceable undertaking is accepted, notice of the decision to accept it and reasons for that decision will be published by the regulator on the DEM website within 14 days of the date of the decision.

Enforceable undertakings will not be removed from the public register and will remain on the register after a company or individual has discharged all obligations of the undertaking.

1.2 Purpose

The purpose of this EVU is to document SA Crushing & Minerals' proposed undertakings in connection with a contravention of the Act and to demonstrate SA Crushing & Minerals' commitment to continuous improvement and addressing risks that the Minister contends were causal or contributory to the incident.

1.3 Commencement of Undertaking

This enforceable voluntary undertaking is given on the day and date that it is accepted and signed by the Minister or the Minister's delegate, being the date of the decision. The undertaking and its enforceable terms will commence to operate as a legally binding commitment on the part of the person from the date it is given.

SECTION 2: GENERAL DETAILS

2.1 Details of the undertaking Person

Person Name:	SA Crushing & Minerals Pty Ltd
ACN:	647 167 100
Nominated person: (Point of contact for DEM communications)	Leith Ahlfors
Position:	Director
Street address:	8-10 Leitch Road, Roseworthy
Postal address:	As above
Telephone:	0419 844 179
Email address:	leith@laka.com.au

2.2 Details of the Location

Certificate of Title	5465/129
Land Holder:	Leith Ahlfors
Associated Mining Tenement?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Historic Tenement
Type(s) and Number(s) if applicable	MC 4536
Location Description	Land contained within Certificate of Title Volume 5464, Folio 129

SECTION 3: INCIDENT DETAILS

3.1 Details of the Alleged Incident

1. On 11 November 2021, the Department for Energy and Mining (DEM) notified SA Crushing & Minerals Pty Ltd (SA Crushing & Minerals) of the successful registration of Mineral Claim (MC) 4536 on the Mining Register.
2. Between 30 August 2022 and 28 February 2023, SA Crushing & Minerals mined Limestone Rubble (the Mineral) from MC 4536. During that time SA Crushing & Minerals:
 - a. Mined approximately 97,647 tonnes of the Mineral from MC 4536; and
 - b. Sold 17,647.45 tonnes of the Mineral to the Regional Light Council for a total of \$231,534.71; and
 - c. Disturbed approximately 8.3 hectares of land contained within MC 4536 without being duly authorised by or under the Act.

3.2 Details of the Alleged Contravention

1. It is alleged that the incident constitutes the offence of illegal mining pursuant to section 70HC of the Act, which states:

*“A person who -
Carries out authorised operations without being duly authorised by or under this Act; or
sells, or disposes of, minerals recovered by the person in the course of authorised operations, or utilises any such minerals, in a manner that is contrary to a provision of this Act,
is guilty of an offence.”*

3.3 Details of any enforcement notices issued that relate to the alleged contravention

- Tick if there were no notices issued by DEM in relation to the contravention

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice
02/03/2023	Compliance Direction	2023D013811	Illegal Mining	Cease all Mining Operations
			Date complied with:	29/06/2023
02/03/2023	Environmental Direction	2023D014682	To prevent or minimise undue damage to the environment	Undertaking tests and monitoring and, in relation to such a requirement; a. the tests or monitoring be carried out by a person with specified qualifications or experience; and b. taking action to rehabilitate or restore the land.
			Date complied with:	20/04/2023

3.4 Detail the consequence of the alleged contravention

1. The avoidance of fees such as rent, royalties and administrative fees, which would have been paid to DEM, to the approximate amount of \$15,984.48 (5.3 refers); and
2. The disturbed area is greater than 3 hectares, preventing use of the 'Defined Impact Template' which would otherwise be available for use by any prospective Tenement Holder at the site (5.1 refers).

SECTION 4: GENERAL TERMS

SA Crushing & Minerals acknowledges and commits to the general terms set forth in the sub-terms below.

4.1 Admission by the person

I acknowledge that the conduct set out in 3.1 has, or is likely to have, led to the alleged contraventions set out in section 3.2; and:

I acknowledge the seriousness of the alleged contravention, including any real or potential harm or damage that may have resulted from it.

4.2 Acknowledgement that this is not an admission of guilt

I acknowledge that the giving of an undertaking does not constitute an admission of guilt in respect of the alleged undertaking.

4.3 Statement of commitment

acknowledge that the conduct (behaviour, activities and other factors) which caused or led to the alleged contravention has ceased and will not reoccur.

4.4 Consultation in relation to this undertaking

I acknowledge that all relevant stakeholders will be consulted with as necessary prior to any works relating to this undertaking.

Future actions aimed at preventing a recurrence of the same or similar contraventions or other non-compliances:

I commit to ensure all correct authorisations are obtained prior to conducting Mining Operations as defined in the Act.

I commit to familiarising decision makers within the company, with the certain sections of the Act and *Mining Regulations 2020*, that are relevant to any current and future operations.

4.5 Acknowledgement regarding claims by any other person

I acknowledge the undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged contravention.

4.6 Acknowledgement regarding other enforcement mechanisms

I acknowledge that no other enforcement action for an alleged contravention of the Act may be brought against a person if an undertaking is in effect in relation to that alleged contravention.

4.7 Acknowledgements regarding proceedings

I acknowledge that no proceedings for an alleged contravention of the Act may be brought against a person if an undertaking is in effect in relation to that alleged contravention.

I acknowledge no proceedings for an alleged contravention of this Act may be brought against a person who has made an undertaking under this section in relation to that alleged contravention and who has fulfilled the requirements of the undertaking.

I acknowledge that the Minister may accept an undertaking in relation to an alleged contravention before proceedings in respect of that contravention have been finalised.

I acknowledge that if the Minister accepts an undertaking before the proceedings are finalised, the Minister must take all reasonable steps to have the proceedings discontinued as soon as possible.

4.8 Acknowledgement that this undertaking may be published and publicised

I acknowledge that the Minister and the Department may make the undertaking publicly available, including by placing it on the Department's website; and

I acknowledge that the Department may make public reference to the undertaking from time to time, including in media statements and in the Department's publications.

4.9 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

I have the financial ability to comply with the terms of this undertaking and am able to provide evidence of that ability at the request of the Department.

I acknowledge that, in the event of impending liquidation or sale of the entity, the Department must be advised in writing of the relevant circumstances and capacity to comply with the outstanding terms of this undertaking.

4.10 Statement regarding Intellectual Property Licence

I grant 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 materials developed as a result of this undertaking.

4.11 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

I acknowledge that the Department may conduct compliance monitoring to ensure compliance with the terms of this undertaking.

Cooperation will be given to allow the Department's authorised officers to assess compliance including giving access to relevant material (evidence of compliance).

SECTION 5: NEGOTIATED TERMS

I acknowledge all activities set forth in the enforceable terms below must be auditable and include a date for completion and a minimum cost for each activity. The person commits to performing the activities below diligently, competently and by the respective completion date.

5.1 Agreement to complete activities to promote the objects of the Act

The Department seeks certain activities to be undertaken at a specified minimum cost: **YES**

The residual amount of the minimum cost is to be paid into the Mining Rehabilitation Fund

Activities	Minimum cost	Timeframe
a) Rehabilitation of 5.3 hectares of the disturbed area, ensuring the only disturbed area is 3 hectares or less.	\$15,000.00	To be completed by no later than Friday, 10 November, 2023
Total minimum cost of benefits for the community	\$ \$15,000.00	

5.2 Agreement to pay back any economic benefit received because of the alleged contravention

The Department seeks payment, wholly or in part, any economic benefit the person received because of the alleged contravention: **NO**

To be paid into the Mining Rehabilitation Fund.

Undue benefit costs	Amount
Summary of all profits made from the alleged contravention	\$ Enter amount
Total Amount	\$ Enter amount

5.3 Agreement to pay back any fees avoided because of the alleged contravention:

The Department seeks payment of any fees avoided due to the alleged contravention including but not limited to rent, royalties and administrative fees: **YES**

To be paid into the Mining Rehabilitation Fund.

Fees Avoided	Amount
Base fees	\$1,819.00
Advertising Component	\$982.00
Annual Production <100,000 tonnes	\$1,211.00
Royalties	\$9,176.67
Annual Fees	\$182.00
Annual Rent	\$2616.81
Total	\$ \$15,987.48

5.4 Agreement to pay the Department's costs

The Department seeks payment for costs associated with this undertaking, as itemised below: **NO**
To be paid into the Mining Rehabilitation Fund.

Department's costs	Amount
Investigation costs	\$ Enter amount
Legal & administrative costs associated with the alleged contravention	Enter amount
Costs related to reviewing proposed undertaking	Enter amount
Compliance monitoring costs	\$ Enter amount
Publication costs	\$ Enter amount
Total Amount	\$ Enter amount

5.5 Total minimum amount to be paid into the Mining Rehabilitation Fund (MRF)

The Department seeks the total minimum amount to be paid into the Mining Rehabilitation Fund; **YES**
This excludes any residual amount from the minimum spend for activities to be undertaken to promote the objects of the Act (5.1 refers)

Estimated total value of	Minimum spend
Economic Benefit	\$ 0
Fees Avoided	\$ 15,987.48
Department's costs	\$ 0
Estimated total minimum amount to be paid into MRF	\$ 15,987.48

5.6 Total minimum spend

I acknowledge the minimum spend for this undertaking will comprise of the:

(The amounts below should correspond with total amounts from 5.1 to 5.5 above)

Estimated total value of	Minimum spend
Activities minimum spend	\$ 15,000.00
Total minimum amount to be paid into MRF	\$ 15,984.48
Total minimum spend for the undertaking	\$ 30,984.48

I agree to spend any residual amount arising from the total minimum spend value not being met. Agreement on how to spend this residual will be sought from the MRF.

SECTION 6: OTHER MATTERS RELEVANT TO THE ENFORCEABLE VOLUNTARY UNDERTAKING

6.1 Any other matters relevant to the enforceable voluntary undertaking

Any other commitments that will form part of the enforceable voluntary undertaking:

6.2 Internal compliance programs (ICPS)

Details of monitoring and reporting mechanisms the company or person will adopt and demonstrable board (if applicable) and senior management commitment to, and involvement with, the entire program:

6.3 Reporting requirements to the Minister

A commitment to submit scheduled compliance reports to the Minister, once any payment has been made into the MRF and each activity required under section 5.1 has been completed, following the date of signature of the Acceptance of Undertaking:

A compliance report, together with supporting evidence, must be submitted by the person, to the Minister, within 14 days of the scheduled date in order to verify that it is complying with the undertaking.

A commitment to ensure a close-out report is submitted:

A close-out report, together with supporting evidence, must be submitted to the Minister when the person considers that the requirements of the undertaking have been satisfied.

SECTION 7: OFFER OF UNDERTAKING

EITHER

I offer this undertaking and commit to the terms herein.

Signed: 
[Person]

Leith Ahlfors
[Print name]

Director
[Position]

Dated at Adelaide SA this 26th day of September 20 23

OR

As a duly authorised person of Enter name of person I offer this undertaking and commit Enter name of person to the terms herein.

Signed: _____
[Duly Authorised Person]

[Print name]

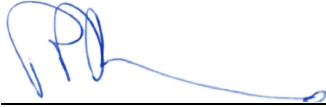
[Position]

Dated at _____ this _____ day of _____ 20 _____

SECTION 8: ACCEPTANCE OF UNDERTAKING

I accept this undertaking as an enforceable voluntary undertaking under section 74AA of the *Mining Act 1971*.

Signed:



[Person]

PAUL DE IONNO

[Print name]

ACTING EXECUTIVE DIRECTOR, MINERAL RESOURCES

[Position]

Dated at _____ this 10 day of October 2023