

WHS undertaking

Work Health and Safety Act 2011

Undertaking to the Secretary, Department of Primary Industries and Regional Development,
given for the proposes of Part 11 of the *Work Health and Safety Act 2011 (the WHS Act)*

By

Hitachi Construction Machinery (Australia) Pty Ltd

ACN: 000 080 179

ABN: 62 000 080 179

Section A – general information

1. Details of the company or individual proposing the undertaking			
Name of company or individual	Hitachi Construction Machinery (Australia) Pty Ltd (HCA)		
Registered address	128 Tile Street Wacol, QLD 4076		
Mailing address (if different from above)			
Contact officer	Tanya Myint		
Position	General Counsel		
Telephone	██████████	Mobile	██████████
Email address	██████████		
Legal structure	Australian Proprietary Company, Limited By Shares		
Type of business	Sale of construction equipment, mining equipment and associated parts and services		
Commencement date of the entity	23/06/1949		
Workers	Full time: 1381	Part time: 17	Other: 1
Products and services	Distributor of Hitachi and Bell mining and construction machinery and associated spare parts and services (including provision of labour)		
Comments			

2. Details of the alleged contravention
It is alleged that on 12 and 13 November 2022 at Tarrawonga Coal Mine located approximately 16 kilometres North-East of Boggabri in the State of New South Wales (Mine), HCA being a person conducting a business or undertaking who had a health and safety duty under section 19(1) of the <i>Work, Health and Safety Act 2011</i> (NSW) (the WHS Act) to ensure so far as reasonably practicable the health and safety of workers while the workers were at work in the business or undertaking, did fail to comply with that duty and the failure to comply with that duty exposed workers, in particular ██████████, to a risk of death or serious injury contrary to section 32 of the WHS Act.

3. Details of the events surrounding the alleged contravention eg incident details
On 12 and 13 November 2022, ██████████, an employee of HCA who held the position of ██████████, was performing the duties of a Field Service Fitter at the Mine. During this time, ██████████ was engaged in maintenance work on a Hitachi EH4000 rigid dump truck, designated RDT 689 (the Truck), within the Mine's mechanical workshop. The work scope included repairing cracking in the nose cone of the rear axle box of the Truck by welding steel plates onto the area of the nose cone where the cracking was present. The cracking had been identified in preventative maintenance inspections and the Truck was to undergo repairs (the same repair had been carried out on another truck).

Prior to [REDACTED] shift, a rectangular steel plate (the Plate), fitted with a 10-ton rated OEM-approved lifting lug, had been inserted through a rectangular cut-out into the Truck's axle box blower housing. The cut-out dimensions were smaller than those of the Plate. The Plate was connected to the overhead crane (the Crane) within the Mine's mechanical workshop by means of a load-rated hook and chain assembly.

The Plate's purpose was to facilitate lowering and lifting the front of the rear axle box assembly using the Crane. This enabled workers to access and repair cracks in the A-frame.

After installation of the Nose Cone Pin, the Plate used during removal and installation of the A-frame was to be removed. [REDACTED] commenced this task at the end of his shift.

[REDACTED], working without assistance, was positioned on the rear axle box assembly when he lowered the Plate using the Crane. He then crouched and reached down into the A-frame through the cut-out to take hold of the Plate, positioning it perpendicular to the top of the axle box.

[REDACTED] operated the Crane with one hand via a cordless remote while manoeuvring the Plate with the other.

[REDACTED] began hoisting the Plate but became uncomfortable in his crouched position. He released the "U" button, expecting the Crane to stop immediately upon release, as he was unaware of the Crane's continuous movement profile. [REDACTED] momentarily placed the pendant aside to reposition his body.

Despite having released his finger from the "U" button and having put the remote control down, the Crane did not stop but continued to hoist upward. The upward movement caused the Plate to be wedged against the axle box opening. This generated sufficient force to pull the Plate through the axle box opening, striking [REDACTED] on the lower left leg below the knee and causing a compound fracture.

The force propelled the Plate upwards onto the platform next to the truck's operator cabin. The Plate and lifting equipment were still attached to the Crane after the incident.

4. Acknowledgement that the Resources Regulator alleged a contravention has occurred

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

5. Details of any injury that arose from the alleged contravention

[REDACTED] sustained injury by way of a compound fracture to his left leg.

6. 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
14 November 2022	Section 195	NTCE0011231 – Issued to Whitehaven Coal (WHC)	On 13/11/22 an incident occurred at on a Hitachi EH 4000 dump truck where a worker was removing a lifting plate from the blower housing cut-out on the rear axle nose cone with an overhead crane, resulting in the lifting plate releasing under tension, injuring the worker and ejecting above the chassis of the truck and landing on the walkway behind the operator's cab of the machine.	WHC & HCA undertook a risk assessment on the use of the A-Frame nose cone lifting plate. The purpose was to identify the risks & controls associated with the maintenance activity. Use of the lifting plate was removed from the system of work. A RUD VLBS Load Ring welded directly on top of the nose cone eliminated lifting plate use. HCA updated its SWMS to reflect the changes. HCA workers trained on the new system.

7. Statement of assurance about future work, health and safety behaviour and compliance with the WHS Act

HCA is committed to complying with all of its obligations under the WHS 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)

HCA discharges its legislative requirements for workers compensation through funded premiums paid to Coal Services Pty Limited (and its subsidiaries), who exercises its functions and derives its powers from 10(1) of the Coal Industry Act 2001 (NSW). Under this legislation, CMI is a specialised insurer responsible for managing and administering the workers compensation scheme for the NSW coal 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
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[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

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

The HCA Safety Management System (SMS) is a structured and integrated framework established in accordance with the Australian harmonised Work Health and Safety legislation, and relevant State and Territory Act and Regulations. It consolidates all necessary documented plans, policies, and procedures to ensure the systematic identification, assessment, and control of health and safety risks across both surface and underground mining operations. The SMS is designed to deliver compliance with legislative obligations and to support continuous improvement in health and safety performance, as outlined in the relevant Codes of Practice.

The plans, policies, and procedures within HCA SMS are developed to ensure compliance with the Work Health and Safety Act 2011 (NSW), and the Work Health and Safety Regulation 2017 (NSW). In addition, the SMS is certified to AS/NZS ISO 45001:2018 *Occupational Health & Safety Management Systems*, and AS/NZS ISO 9001:2015 *Quality Management Systems*. The SMS additionally, aligns with AS/NZS ISO 31000:2009 *Risk Management – Principles and guidelines*.

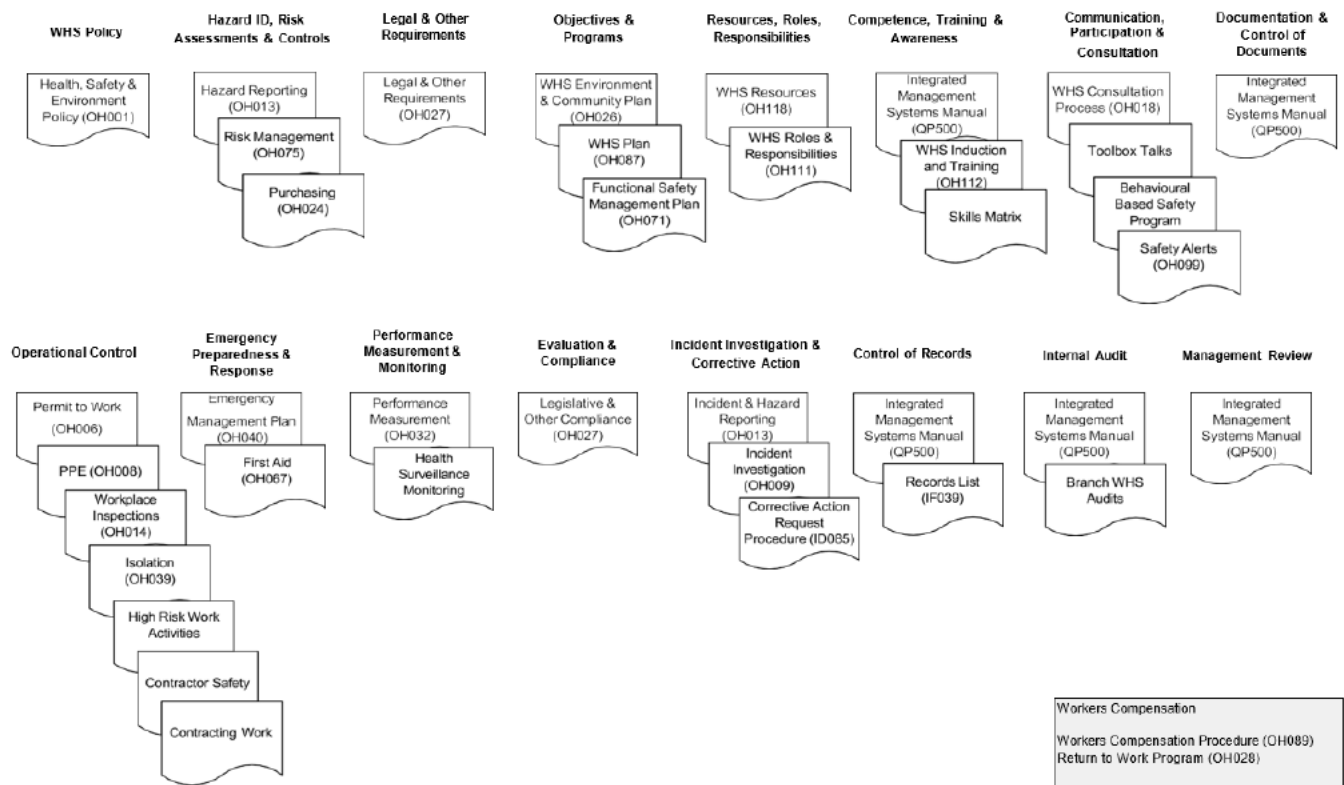
HCA acknowledges that the ongoing effectiveness of its SMS relies upon the application of robust assurance mechanisms. This principle is embedded within the organisation's Integrated Management System Manual (IMSM). The IMSM provides a framework through regular evaluation, verification, and continuous improvement of the SMS, through Inspection, Review and Audit mechanisms that ensures the system remains compliant with regulatory obligations and aligned with industry best practices.

The HCA key mechanisms include the following:

- **Workplace Inspections** – Workplace Inspections are an element of the risk management process at Hitachi Construction Machinery Australia and are conducted to identify hazards and poor work practices in the workplace, so that risks can be eliminated or controlled to continually improve the working environment in line with the HSE Policy. Workplace inspections in all Workshop areas will be carried out monthly. Inspections of the stores and office areas may be carried out on alternate months unless a risk assessment conducted by the WHS Committee or management identifies that an area should be inspected more frequently
- **Branch and Project Risk Assessments** – Performed at a branch based (including CSG) or project-based level involving HCA WHS staff in conjunction with the Branch Manager, Project Manager, or Assessment Team and other personnel as required. Branch/ Project Based Risk Assessments will be performed for all new projects that require consultation between WHS staff, Branch and Regional Managers for existing facilities as required.
- **Safety Conversations** – provide an opportunity for consultation in that there is a focus on employees listening to each other in relation to the health and safety of the task being undertaken.
- **Shift handover meetings** – may be held when the work changes regularly or when there is a number of contractors working in a confined area. Shift hand over meetings may include:
 - Discussions about the works to be completed and the method to be used, and completion of Job Safety Analysis (JSA).
 - Identification of site-specific hazards and/or hazards created by current working conditions.
- **Health and Safety Committee Meetings** – the Committee meet once per month. HCA Management may call an extraordinary meeting when necessary or at any reasonable time at the request of at least half of the members of the committee. Minutes will be taken of all meetings and recorded in Assura with copies made available to management as required and displayed on all safety notice boards and saved in the respective Branch Monthly PPI folder.
- **Toolbox Talk Meetings** – Toolbox meetings involve all employees and contractors on site and are conducted by the Supervisor or Manager. The meetings are held as a minimum once a month; additional meetings may be scheduled if a need is recognised. All issues discussed and actions arising from the meeting, along with the names and signatures of all in attendance are recorded in Assura.
- **WHS Plan Monthly** – On an annual basis, each Branch will be assigned a WHS Plan in Assura, with the activities required for the upcoming year set.
- **Branch Management Review Meeting Weekly** - These reviews ensure the Quality and Safety Management Systems continuing suitability, adequacy and effectiveness at a branch level.
- **Management Review Meeting Monthly** – The system is reviewed and monitored through Management Review Meetings. These meetings are held at the Executive level for quality and WHS. Branch Management Review meetings for quality and safety are also held within HCA.

- **Executive Management Review Meetings Quarterly** – This review is a high-level review and ensures the Quality Management Systems' continuing suitability, adequacy and effectiveness for the whole business (HCA). Assessing opportunities for improvement and identifying any need for changes to the system is undertaken during this review process.
- **External SMS Surveillance and recertification audits** – These audits are conducted on sites based upon the preselected schedule of SAI Global each year. As part of this program HCA conduct pre-audits of the yearly nominated SAI Global sites to assess the SMS effectiveness and identify any opportunities for improvement.

A visual diagram of the framework of the HCA SMS is shown below:



Specifically in relation to the Incident, HCA was classified as a Class B Contractor by Whitehaven Coal and work performed by HCA for Whitehaven Coal at the Tarrawonga Coal Mine was governed by Whitehaven Coal's management systems including in relation to safety management. For Class B Contractors, this meant Whitehaven Coal performed a greater directive role and had a management system specific to the task(s) to be undertaken as per Whitehaven Coal's Standard Contractor Health, Safety and Environmental Policy. As a Class B Contractor, HCA was required to meet minimum requirements which included acknowledgement it had reviewed the relevant aspects of Whitehaven Coal's management systems and had determined they were compliant with its own arrangements to manage risk. HCA were required to submit any aspects of its management system that controlled risk to a higher level than Whitehaven Coal's management systems for review. HCA had submitted a copy of a safe work method statement for the task being undertaken by [REDACTED] which WHC reviewed and approved for use during the maintenance activities.

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

The local Gunnedah management team has been consulted about the proposal of a WHS undertaking and feedback was sought on potential strategies that would bring benefit to the local community. The details of

the incident were discussed with this group including important learnings from the incident and how they can translate into benefits for HCA's broader safety management system and safety culture.

The WHS Executive Committee was consulted about the proposal of a WHS undertaking which was met with support to deliver improved safety outcomes for HCA.

HCA has commenced consultation and will continue to consult in with Safety Committees across HCA branches which are comprised of representatives from the work group, management and Branch Manager in relation to the proposal of a WHS undertaking and the incident which has given rise to the undertaking. The strategies which HCA proposes to commit to as part of the undertaking have been shared in this forum.

HCA conducted face to face consultation with [REDACTED] on the content of this WHS undertaking on 28 August 2025. In the course of this meeting [REDACTED] reviewed the text of this WHS undertaking then in draft. [REDACTED] expressed no objections and made positive reference to the community projects referred to in the draft..

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

HCA regrets that the incident occurred, and that [REDACTED] suffered injury as a result of the Incident.

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

Detail the improvements that have been made to date within the workplace to rectify the situation that led to the alleged contravention. This may include the elimination of the hazards that led to the alleged contravention or the use of specific control measures to minimise risk where the hazard could not be eliminated.

Details of the costs of the rectifications must also be included.

Total amount spent on rectification \$ 23,474 (with \$47,335.20 spend planned)

Main rectification actions are summarised as follows:

1. Review of SWP used for task resulting in revised SWP.
2. Recommendations made to Whitehaven Coal that they review and update their Competency Assessment Process and Training material related to Tarrawonga Workshop Crane (Whitehaven).
3. Reviewed Gunnedah branch Job Planning processes to ensure they adequately assess the impact on job execution and the related work and risk assessment procedures when a person planned to be involved in that job becomes absent.
4. Additional awareness and training for HCA Gunnedah technicians and supervisors in hazard awareness and identification. This includes Toolbox talk information and Safe M8's training for staff and supervisors.
5. Review of HCA JSA and SWP processes which was done across HCA rather than just Gunnedah branch operations. This has evolved into other Company wide initiatives in this area.
6. Review of HCA Permit to Work OH007 – Working at Heights to include Escape & Rescue Plan, Emergency Planning & Communication.

The immediate rectifications, as a result of the alleged contravention in accordance with items 1 to 3 and 6, did not require any external cost, beyond the HCA direct FTE labour costs. The rectification for items 4 – SafeM8's –

was a behaviour safety engagement course at a cost of \$5,868.50 per session (there were 4 sessions conducted at the Gunnedah Branch with total cost of \$23,474). The further rectification for item 4 – Hitachi Safety Leadership Program – A program specifically developed to support and provide leaders within HCA the skills and knowledge to be an effective leader of people, being safe. This rectification will be delivered to the whole HCA business, including Gunnedah in a staged delivery over the 2025/2026 FY. The cost of each session is \$11,833.80 per session and allocation of four sessions totalling \$47,335.20.

13. Acknowledgement that the WHS undertaking may be published and publicised

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

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

14. Statement of ability to comply with the terms of the undertaking

HCA 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

HCA acknowledges that there are no current relationships with any of the beneficiaries outlined in the WHS undertaking, other than the current workers of HCA, HCA's contractors and the broader industry.

16. Intellectual property licence

HCA grants the Resources 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 WHS undertaking which are for broader industry benefit.

17. Acknowledgement that materials, information or deliverables under WHS undertaking accurate

HCA acknowledges that any material, information or deliverable developed as a result of, or representations otherwise related to, this WHS undertaking are accurate, true, correct, complete, balanced, objective and not misleading.

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

The Resources Regulator requests a list outlining details of any prior work health and safety convictions or findings of guilt under work health and safety legislation¹ or work health and safety related legislation.

Does HCA have any such prior convictions or finding?

☐ Yes ☒ No

¹ Subject to any local legal constraints such as spent conviction legislation

The list is attached (if applicable)

☐ Yes ☐ No

19. Commitment to participate constructively in all compliance monitoring activities of the undertaking

HCA 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 Resources Regulator by the due date for the term.

HCA acknowledges that co-operation will be provided to the Resources Regulator in the event that the Resources Regulator chooses to undertake other compliance monitoring activities (such as a site visit) to verify the evidence provided.

HCA acknowledges that material offered as evidence of compliance will be retained by the person throughout the period of the undertaking.

20. Commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

HCA commits that the behaviour that led to the alleged contravention has ceased and that it will take steps to prevent recurrence of the Incident as far as is reasonably practicable.

21. Commitment to the ongoing effective management of work health and safety risks

HCA commits to the ongoing effective management of WHS risks in accordance with the WHS Act and the applicable regulations.

22. Acknowledgment of WHS undertaking guidelines

HCA has read and understood the *Enforceable Undertakings Guidelines*, version 9.1, dated May 2025.

Section B – enforceable terms

1. Publication of information about the undertaking

HCA must, within 30 days of receiving notification from the Resources Regulator of the acceptance of the WHS undertaking, cause a public notice to be published in the Gunnedah Times, Daily Telegraph and Sydney Morning Herald which will be drafted using the script provided in Attachment A.

2. 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)

HCA must disseminate information by implementing the following:

- (a) within 30 days of receiving notification from the Resources Regulator of the acceptance of the WHS undertaking, issue a written communication to all HCA workers Australia-wide in relation to the WHS undertaking. The written communication will provide information about the WHS undertaking and the initiatives;
- (b) provide a brief to all customers of EH4000 rigid dump truck Australia-wide in relation to the WHS undertaking;
- (c) display a summary of the WHS undertaking on all HCA branch WHS notice boards for a period of at least 30 days commencing within 30 days of receiving notification from the Resources Regulator of the acceptance of the WHS undertaking;
- (d) review the implementation and progress of the WHS undertaking each month at the Executive Leadership Team meeting; and
- (e) provide update on the progress of the WHS undertaking each quarter at the Operation Review Meeting which is attended by all HCA Branch Managers.

Dissemination by each of the above methods must occur/commence (in respect to items (d) and (e)) within 30 days of receiving notification from the Resources 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

Engagement of an accredited WHS HSR Training course provider (ACIM Solutions) to develop a 5-day HSR training course tailored to (respectively) the Coal and Metalliferous Mining Industry. The training package will be provided to the Resources Regulator which, in turn, will be made available to accredited trainers to deliver throughout the coal and metalliferous industry sectors. The estimated cost is \$ 33,200.

4. Strategies that will deliver industry benefits

HCA will fund a 'Load Cell Project' in the sum of \$400,000 (excluding GST) through the transfer of monies to the Resources Regulator who will administer and manage the project. The project will involve the Resources Regulator allocating a subsidy to eligible mine operators for the purchase of suitable lifting device weight scales (including electronic crane hook scales and digital load indicators) that will give a digital readout on the actual

load being lifted. The Resources Regulator will administer the 'Load Cell Project' in accordance with a project plan that will be published on its website alongside this WHS undertaking.

5. Strategies that will deliver community benefits

- a) **Project 1 - Gunnedah Emergency Response Station:** Consult with Coal Services and Gunnedah Mine Rescue Brigade Captain to identify equipment which would be used to support emergency response capability of workers in the wider Gunnedah Coal industry and fund the purchasing of identified equipment.
An amount of \$42, 120.
- b) **Project 2 – Consult with TAFE NSW** to identify what additional equipment can be purchased by TAFE that enhances or promotes health and safety with regard to courses offered by TAFE NSW in the Gunnedah catchment area. HCA to fund the purchase, or contribute up to the committed value, of identified equipment.
An amount of \$42, 120.
- c) **Project 3 – Gunnedah Community Health Service:** Partner with Gunnedah Community Health Service to deliver its aim of delivering high-quality, patient-centred health care to the Gunnedah community. Provide funding to the Gunnedah Community Health Service to deliver value to the Gunnedah community.
An amount of \$42, 120.
- d) **Project 4 – Gunnedah Family Support Services:** Gunnedah Family Support is not-for-profit community-based organisation committed to delivering services that strengthen the wellbeing of individuals and families. Provide funding to the Gunnedah Family Support Services to deliver services that strengthen the wellbeing of individuals and families living in Gunnedah community.
An amount of \$42, 120.

The precise use of the funding in each case will be determined in consultation with the relevant organisation. HCA will inform the Regulator of the use to which the funding is put.

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

HCA acknowledges that any promotion of a benefit arising from the undertaking will clearly link the benefit to the undertaking and that the undertaking was entered into as a result of an alleged contravention.

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

HCA 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:

☒ investigative, legal and administrative costs	\$ 118,980.51
☒ compliance monitoring costs	\$ 12,500.00
☐ publication costs	\$
Total amount	
Insert case, if any, for why the Regulator would not seek to recover costs as an attachment	\$ 131,480

8. Minimum spend

HCA must spend a minimum of \$733,160 excluding GST, in carrying out its obligations as set out in this WHS undertaking, inclusive of the Regulator's recoverable costs.

HCA acknowledges the minimum spend comprises of:

Activities to deliver	Total estimated cost
Benefits to workers –Subsidising the preparation of a 5-day HSR Coal and Metalliferous Training Program.	\$ 33,200
Benefits to industry – Providing funds to Regulator for the purpose of subsidising the purchase by eligible mine operators of load cells for overhead travelling cranes	\$ 400,000
Benefits to community – Project 1: Gunnedah Emergency Response Station	\$ 42,120
Benefits to community – Project 2: TAFE NSW	\$ 42,120
Benefits to community – Project 3: Gunnedah Community Health Service	\$ 42,120
Benefits to community – Project 4: Gunnedah Family Support Services	\$ 42,120
Regulator recoverable costs	\$ 131,480
Estimated total value of the undertaking	\$ 733,160 (excl. GST)

9. Project of undertaking

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

10. Timeframe for delivery

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

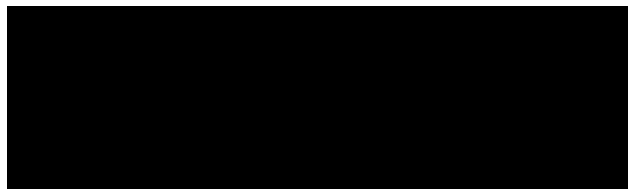
Section C – Offer of undertaking

By an individual	By a corporation
I offer this undertaking and commit to the terms herein. Signed: [Person] Name: [Print name] Position: Dated:	As a duly appointed and authorised officer or agent of Hitachi Construction Machinery (Australia) Pty Ltd I offer this undertaking and commit Hitachi Construction Machinery (Australia) Pty Ltd to the terms herein. Signed: Director Name: Position: Managing Director Dated: 03/10/2025 Signed: Director Name: Position: Director Dated: 03/10/2025

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: **Jamie Tripodi**



Position: Executive Director Resources Regulator
delegate of the Secretary, Department of Primary Industries and Regional Development
Dated: 23 October 2025

Attachment A – Publication script

This attachment is incorporated in and considered part of the WHS undertaking given by Hitachi Construction Machinery (Australia) Pty Ltd for the purposes stated herein, and are enforceable terms given under Section B of the undertaking by Hitachi Construction Machinery (Australia) Pty Ltd.

Hitachi Construction Machinery (Australia) Pty Ltd will undertake the following:

On 13 November 2022, at the Tarrawonga Coal Mine located approximately 16 kilometres North-East of Boggabri in the State of New South Wales, a lifting plate being hoisted by a Crane that had jammed in/around the axle blower housing of a rigid dump truck suddenly released and struck a worker operating the Crane (**the Incident**). The worker suffered serious injuries.

Hitachi Construction Machinery (Australia) Pty Ltd (HCA) has an arrangement with the nominated mine operator and lease holder. The worker was employed by HCA.

The NSW Resources Regulator, a division of the Department of Primary Industries and Regional Development (**DPIRD**), investigated the Incident and subsequently alleged that HCA contravened section 19(1) of the *Work, Health and Safety Act 2011* (NSW) (the **WHS Act**) by failing to ensure so far as reasonably practicable the health and safety of workers while the workers are at work in the business or undertaking.

HCA entered a work health and safety enforceable undertaking with DPIRD in relation to the Incident (**WHS undertaking**). This notice has been published under the terms of the WHS undertaking.

The WHS undertaking requires HCA to take the following actions:

- Fund the development of (respectively) a 5-day HSR Coal and Metalliferous Training Program, being a cost of \$33,200;
- Fund a 'Load Cell Project' through the transfer of monies to the NSW Resources Regulator who will administer and manage the allocation of funds to eligible mine operators to subsidise the purchase of suitable lifting device weight scales (including electronic crane hook scales and digital load indicators) that will give a digital readout on the actual load being lifted, being a cost of \$400,000;
- Contribute \$42,120 towards the purchase of emergency response equipment to the Gunnedah Emergency Response Station;
- Contribute \$42,120 towards the purchase of equipment which enhances health and safety courses offered by TAFE NSW in the Gunnedah catchment area;
- Contribute \$42,120 to contribute towards health-care services delivered by the Gunnedah Community Health Service to the Gunnedah community
- Contribute \$42,120 to help Gunnedah Family Support Services continue to deliver much-needed services to the families of Gunnedah.

The total value of the WHS undertaking, including the Regulator's recoverable costs, is **\$733,160 (excl. GST)**

The full WHS undertaking and general information about undertakings is available at:

www.resourcesregulator.nsw.gov.au

Attachment B

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

Specific Project	Delivery	Proposed Schedule
Direct Worker Benefit	Engage ACIM Solutions to design and develop a 5-day HSR Training Program specific to the coal and metalliferous industries. The training course will be designed to be delivered in a face-to-face format and must: a) include NSW industry specific legislation - Work Health and Safety (Mines and Petroleum Sites) Act 2013 and Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 b) incorporate both coal and metalliferous specific case studies.	Within 6 months of acceptance of the WHS Undertaking by Regulator
Direct Industry Benefit	Funding of a 'Load Cell Project' in the sum of \$400,000 through the transfer of monies to the NSW Resources Regulator who will administer and manage the Project. The Project will involve the NSW Resources Regulator allocating a subsidy to eligible mine operators for the purchase of suitable lifting device weight scales (including electronic crane hook scales and digital load indicators) that will give a digital readout on the actual load being lifted.	Four equal payments of \$100,000 in accordance with the following payment schedule; Payment 1: 6 months after acceptance of the WHS Undertaking by Regulator. Payment 2: 12 months after acceptance of the WHS Undertaking by Regulator. Payment 3: 18 months after acceptance of the WHS Undertaking by Regulator. Payment 4: 24 months after acceptance of the WHS Undertaking by Regulator.
Direct Community Benefit – Project 1 -	Gunnedah Emergency Response Station Partner with Coal Services and Gunnedah Mine Rescue Brigade Captain to identify equipment which	Within 12 months of acceptance of the

Specific Project	Delivery	Proposed Schedule
Gunnedah Emergency Response Station	would be used to support emergency response capability of workers in the wider Gunnedah Coal industry and fund the purchasing of identified equipment.	WHS Undertaking by Regulator
Direct Community Benefit – Project 2 – TAFE NSW	Consult with TAFE NSW to identify what additional equipment can be purchased by TAFE that enhances or promotes health and safety with regard to courses offered by TAFE NSW in the Gunnedah catchment area. HCA to fund the purchase, or contribute up to the committed value, of identified equipment.	Within 24 months of acceptance of WHS Undertaking by Regulator
Direct Community Benefit – Project 3 – Gunnedah Community Health Service	Partner with Gunnedah Community Health Service to deliver its aim of delivering high-quality, patient-centred health care to the Gunnedah community. Provide funding to the Gunnedah Community Health Service to deliver value to the Gunnedah community.	Within 18 months of acceptance of the WHS Undertaking by Regulator
Direct Community Benefit – Project 4 – Gunnedah Family Support Services	Gunnedah Family Support is not-for-profit community-based organisation committed to delivering services that strengthen the wellbeing of individuals and families. Provide funding to the Gunnedah Family Support Services to deliver services that strengthen the wellbeing of individuals and families living in Gunnedah community.	Within 24 months of acceptance of the WHS Undertaking by Regulator