



Government
of South Australia

SafeWork SA

Application for proposed **ENFORCEABLE UNDERTAKING**

The commitments in this undertaking are offered to the regulator by

OZ Minerals Prominent Hill Operations Pty Ltd

ABN / ACN ABN 63 091 546 691

The information provided in this document is for the purpose of an undertaking given to the regulator under Part 11 of the *Work Health and Safety Act 2012* (SA). This information will be managed within the requirements of the current State Government privacy regime.

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 SafeWork SA 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.

COMMENCEMENT OF UNDERTAKING

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. 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 1: GENERAL INFORMATION

1.1 Details of the person proposing the undertaking

Nominated person: (Point of contact for SWSA communications)	Gabrielle Iwanow
Street address:	2 Hamra Drive, Adelaide Airport SA 5950
Postal address:	PO Box 248, Adelaide Airport SA 5950
Telephone:	08 8229 6600
Email address:	gabrielle.iwanow@ozminerals.com
Legal structure:	Proprietary Limited
Type of business:	Mining
Commencement date:	From signing of this undertaking
Workers:	Full time: 266
	Part time: 10
	Casual: 1
Products and services:	Copper-Gold-Silver
Comments:	Prominent Hill is a well-established underground copper, gold and silver mine located 650 km north-west of Adelaide in South Australia. The mine is a reliable, low-cost producer and has delivered on annual production guidance for the last seven years. The mining method is underground open stoping mine (Ankata and Malu mine areas, Wira Shaft mine expansion in construction).

1.2 Details of the alleged contravention

Whilst no formal contravention of the *Work Health and Safety Act, 2012* (SA) (the Act) has been alleged, Prominent Hill Operations Pty Ltd ("the Company") understands the characterisation of an allegation that could be made to be the following with respect to the incident involving the unintentional initiation of explosives in two underground development headings at Prominent Hill on 29 October 2020:

- Failed in its duty to comply with health and safety under section 32 of the Work Health & Safety Act 2012 (SA) 'the Act'.
- Failed in its duty under section 18 of the Act, which requires a person to eliminate risks to health and safety, so far as is reasonably practicable; and, if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.
- Failed in its duty to ensure, so far as is reasonably practicable, the health and safety of workers engaged, or caused to be engaged by the person, while the workers are at work in the business or undertaking under 19(1) (a) of the Act.
- Failed in its duty to ensure, so far as is reasonably practicable, the provision and maintenance of a work environment without risks to health and safety under section 19(3)(a) of the Act.
- Failed in its duty to ensure, so far as is reasonably practicable, the provision and maintenance of safe systems of work under section 19(3)(c) of the Act.
- Failed in its duty to ensure, so far as is reasonably practicable, the provision of any information, training instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking under section 19(3)(f) of the Act.

1.3 Detail the events surrounding the alleged contravention

At 16:15hrs on 29 October 2020, two developments headings, 9586 Ike COS 2 and 9586 PG56N OPA2, were unintentionally initiated during independent firing of the Malu HW Decline. Upon reports of blast fumes in the 9586 Level from underground workers at 16:17hrs, investigation into the source of the fumes commenced and at 16:50hrs a mine emergency was called when it was determined the source of the fumes was not from the Malu HW Decline. All personnel were directed to refuge chambers. No personnel were harmed, or equipment damaged in the incident. The mine emergency process was successful, and all personnel were safely accounted. SafeWork SA was promptly notified following the event. All production and development firing activities were suspended until the cause of the incident could be determined.

The root cause of the incident was that no independent firing line was installed for the Malu Hanging Wall Decline as no plan was provided to the electricians and no specifications were captured in a procedure.

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

☐ Tick if there were no notices issued by SWSA in relation to the contravention

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice
31.10.2020	Prohibition Notice issued to OZ Minerals	WHSPN 309710	Prohibition of independent firing	Updates to large number of site documents, changes to Blaster3000 settings (related to global detonators), changes to firing line layout.
01.11.2020	Improvement Notice issued to Byrnecut.	WHSIN 189735	Inadequate training and assessment	Reviewed and revised system of work, supervision, instruction, and training.
30.11.2020	Notice to Produce Documents	WHSNTP 310051	N/A	Supply of requested documentation.
2.12.2020	Notice to Produce Documents	WHSNTP 310052	N/A	Supply of requested documentation.

1.5 Detail the injury sustained or illness suffered by worker/s or other/s as a consequence of the alleged contravention detailed above

There were no physical injuries sustained or illnesses suffered from this incident.

1.6 Detail the employment status and the workers' compensation or other insurance status regarding the person who sustained injury or suffered illness as detailed in 1.5

The injured person is:

☐ an employee of the entity

☐ a self-employed person

☐ other

☒ not applicable

1.7 Detail the support provided or proposed by the person to the injured person and/or family or other/s

Date	Description of support	Comments
	Not Applicable (No injured person)	

1.8 Detail any current work, health and safety systems at the workplace

The Company complies with OZ Minerals' global performance standards that enable the effective management of Material sustainability risks that are common across OZ Minerals. OZ Minerals' global performance standards apply to employees, directors, officers, contractors, consultants, and any other party when undertaking work for or on behalf of OZ Minerals. The performance standards set out minimum mandatory control requirements and accountabilities to:

- Identify, assess and manage threats and opportunities
- Comply with legislative obligations
- Enable Corporate Functions and Assets to design operating systems with devolved accountability
- Provide criteria for measuring Value Creation performance

The Company has appointed Byrnes Australia Pty Ltd ("Byrnes") as the principal contractor to undertake the mine development and life of mine ore production for the Ankata and Malu (underground) ore bodies at Prominent Hill. As the principal contractor, Byrnes has obligations and duties imposed on a principal contractor by the Work Health Safety Act 2012 (SA). Byrnes has prepared and submitted a Safety Management Plan to the Company to undertake the provision of services covered by the contract.

1.9 Detail the level of auditing currently undertaken on the work, health and safety systems referred to in term 1.8, including compliance audits and audit frequency

OZ Minerals requires audit and assurance activities to be conducted across the four Lines of Defense (LoD) to evaluate the effectiveness of internal controls and test compliance with OZ Minerals Governance requirements.

Activities undertaken as part of the Company's audit and assurance program is summarised in the table below. Audit activities, depending on risk level, range from daily verification through to annual independent audits.

Line of Defence	Description	Activity	Examples
1. Identify and implement	<ul style="list-style-type: none"> Identify risks and apply controls. Control Owners/Frontline leaders' activities. Day-to-day control identification, implementation, and verification. 	Verification in field: <ul style="list-style-type: none"> Controls identified in risk register. Performance & Process Standards. 	<ul style="list-style-type: none"> Critical Control application and verification (CCV). Inspections/checklists. Review of clearances by leadership. JSEA and other risk tools review.
2. Enable and monitor	<ul style="list-style-type: none"> Validate 1st line of defence. Risk Owner activities. Planned assurance of controls related to overall management of risk. 	<ul style="list-style-type: none"> Check effectiveness of 1st line of defence. Check control effectiveness against Performance & Process Standards and Controls identified in risk register. 	<ul style="list-style-type: none"> Control effectiveness audits for Critical / Material risks. Internal audits of Performance & Process Standards compliance. External, independent assurance activity initiated by the Asset.
3. Audit and advise	<ul style="list-style-type: none"> Independent internal audits on the effectiveness of processes and controls to manage risks. 	<ul style="list-style-type: none"> Performance of audits at a group level initiated by the Board or Executive Leadership Team on Performance & Process Standards and/or Material Risks. 	<ul style="list-style-type: none"> As determined through Material risks and/or Performance/Process Standards.

4. Third-party initiated audits	Audits required and initiated by independent third-party external bodies for regulatory and statutory compliance.	<ul style="list-style-type: none"> • Third-party initiated audits. 	<ul style="list-style-type: none"> • SA Health – Safe Drinking Water Act – Audit.
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In addition to the Company's audit and assurance activities, Byrnes, as the principal contractor, maintains its own audit and assurance program across the operations it operates.

1.10 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking

Immediately upon occurring, crew briefings were undertaken across the site (processing and mining operations) to discuss the event, provide insight into initial findings and next steps, and answer questions. Onsite counselling support was organised to assist with employee assistance and sessions were conducted with crews.

In addition, Byrnes contacted its other operating sites to share the incident and confirm whether similar exposure existed. The Company also shared the incident notification, initial findings and final investigation outcomes across other operating assets within OZ Minerals.

1.11 Detail the rectifications to the workplace or work practices made as a result of the alleged contravention and the enforcement notices issued

Item	Action	Control Hierarchy
1.	Turn off global function of Logger II and Blaster 3000.	Administrative (Already completed)
2.	"Issue MSI_67 – i-kon and blaster 3000" explicitly prohibiting the use of Global function and firing with the presence of Global detonators.	Administrative (Already completed)
3.	Engage Orica to identify a technical software update that locks out the Global detonator function in the disabled state and prevents the firing of unlogged detonators in all circumstances. Identify method for ensuring all future Blaster 3000 units that come to site are in the lock out configuration with software updated	Engineering (Already completed)

4.	Issue plan for set up of independent firing line for Malu HW Decline.	Administrative (Already completed)
5.	Electricians to segregate firing line as per plan, labelling all firing line.	Engineering (Already completed)
6.	<p>Review and update Prom 41 Malu HW Decline Independent Firing to include standard for firing line. The specification must include:</p> <ul style="list-style-type: none"> - At least physical separation of the independent firing line by minimum of 10m to any other firing lines. - Clear signage and cattle tags stating hanging wall decline firing line must be installed. <p>Additionally, procedure requires details of how to set the Blaster 3000 in remote mode to fire the Malu HW Decline during mine firing time, with explicit note that the independent firing line must not be connected to mine firing line.</p>	Administrative (Already completed)
7.	Source different coloured firing line to be used for independent firing lines to provide a visual cue that the lines should not be mixed. Training materials to be updated to reflect this change.	Administrative (Already completed)

Total amount spent on rectifications \$ 17,000

SECTION 2: GENERAL TERMS

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2

Whilst no formal contravention of the *Work Health and Safety Act, 2012* (SA) has been alleged, the Company understands the characterisation of a potential allegation as referred to in paragraph 1.2.

2.2 Statement of regret that the alleged contravention occurred and the reasons the person considers this undertaking is a more appropriate response to the alleged contravention than a court imposed sanction

The Company regrets that this incident occurred and recognise the implications of the findings for the broader industry. The reason why the Company wished to proceed with the enforceable undertaking is to share the lessons learnt and to contribute to a greater awareness of the incident and the use of explosives in the mining industry, as well as to improve relevant training in this area.

2.3 Statement of commitment that the behaviour, activities and other factors which caused or led to the alleged contravention has ceased and will not reoccur

The Company is committed to ongoing compliance with all obligations under the Act. Since the incident, the Company has progressed actions items in clause 1.11 and is monitoring completion of activities by the nominated due dates.

2.4 Acknowledgment of the guidelines published by the regulator for the acceptance of an undertaking

I have read and understood the **Guidelines for the acceptance of an enforceable undertaking**

Version: 1.

Dated: June 2018

2.5 Acknowledgement that this undertaking may be published and publicised

2.5.1 The Company acknowledges that the undertaking may be published on the SafeWork SA website and referenced in SafeWork SA material.

2.5.2 The Company acknowledges that the undertaking may be publicised in newspapers.

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

- 2.6.1 The Company has the financial ability to comply with the terms of this undertaking and have provided evidence by way of letter from the Company's auditors with this undertaking to support this declaration.
- 2.6.2 In the event of impending liquidation or sale of the entity, the Company will advise SafeWork SA of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

2.7 Statement regarding person's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

The Company confirms that there are no relationships with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarships or other recipients of financial benefit contained in this undertaking other than the following:

- AusIMM;
- Byrncut (principal underground mining services contractor);
- Convergen (video and communication consultant);
- Department of Energy and Mining;
- Emersent (drone project);
- Mining Plus (drone project);
- Orica (explosives supplier); and
- SafeWork SA.

2.8 Statement regarding Intellectual Property Licence

The Company grants SafeWork SA 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.

2.9 Acknowledgement that the person may be required to provide a statutory declaration

Has SafeWork SA requested a statutory declaration outlining details of any prior work health and safety convictions¹, subject to any local legal constraints such as spent conviction legislation, or findings of guilt under work health and safety legislation or work health and safety related legislation?

☐ YES ☒ NO

The statutory declaration is attached (if applicable)

☐ YES ☐ NO

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

2.10.1 It is acknowledged that the regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.

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

2.10.3 It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary at the regulator's expense.

2.10.4 An update, together with supporting evidence, in relation to compliance with each of the enforceable terms of this undertaking will be provided to the regulator at six monthly intervals during the course of the undertaking.

2.11 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

The Company is committed to discharging its obligations under the Act and this commitment is reinforced by

- the rectifications referred to in clause 1.11 above; and
- the undertakings made within this document.

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

2.12 A commitment regarding linking the promotion of benefits by the person to this undertaking

The Company realises the relevance of lessons learnt from this incident and are committed to promoting the learnings. The Company will work with Byrnecut to disseminate this information to the industry, community, employees and contractors to raise awareness of effective WHS management systems, the establishment and verification of independence for firing lines, and the opportunity for elimination of exposure to operators from misfire hazards.

SECTION 3: ENFORCEABLE TERMS

The person acknowledges 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.

3.1 A commitment to disseminate information about this undertaking to workers, and other relevant parties, and in the annual report (if applicable)

Dissemination will be achieved by doing the following:

The enforceable undertaking will be circulated to the Company's workforce at Prominent Hill via site management who will present the detail of the enforceable undertaking and proposed actions to employees. A copy of this enforceable undertaking will be placed on all site bulletin boards for the workforce to view and access. A copy of the enforceable undertaking will be provided to the OZ Minerals Operations Executive for sharing across broader OZ Minerals.

Dissemination will occur within 30 days of the finalisation of this enforceable undertaking.

3.2 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for workers/others

Activities		Minimum cost	Timeframe
3.2.1	Maintain consultation with SWSA and Byrnes cut throughout the course of this undertaking by facilitating quarterly updates, or as per SWSA's compliance management process.	-	-
3.2.2	The company will work with Orica on a hard lock firing function for underground purposes and procure additional wireless blasting hardware and upgrade the mains firing line to move to a segregated district model for firing lines which will further improve control of any	\$130000	12 months from acceptance

	unplanned initiation of explosives.		
Total minimum cost of benefits for workers/others		\$ 130000	

3.3 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for industry

Activities		Minimum cost	Timeframe
3.3.1	The Company will work with Byrnecut to share the learnings of the incident through the AusIMM network. The Company will also present at AusIMM Technical Talk forums both live and streamed online. These presentations are hosted at AusIMM branches around Australia and are aimed at sharing information as broadly as possibly across the industry.	\$ 2000	Over 6 months from acceptance
3.3.2	The Company will produce a short video outlining the incident, what the Company has done since, highlight the risk to other mining operations and the need for independent firing verification. This video will be available for SafeWork SA to use on their own media platforms. The Company will use this video as part of its training requirements. The video will also be made available to Orica and other companies to use in their training packages.	\$ 10000	6 months from acceptance
3.3.3	The Company will present a paper in conjunction with Byrnecut at the AusIMM Underground Operators' Conference in March 2023 on	\$2000	12 months from acceptance

	the 'No Entry Mechanised Presink of the Wira Hoisting Shaft' which details the non-entry shaft sinking system that eliminates the risks associated with a traditional manual pre-sink and allows all shaft construction operation to take place from the surface.		
Total minimum cost of benefits for industry		\$ 14000	

3.4 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012* (SA) that will deliver benefits for community

Activities		Minimum cost	Timeframe
3.4.1	The Company will allocate funding for safety signage and fencing in the Coober Pedy opal fields to be coordinated with the local Department of Energy and Mining office. This will assist in improving awareness of tourists and the community at large about the critical risks in the opal areas surrounding the town.	\$ 10000	6 months from acceptance
Total minimum cost of benefits for the community		\$ 10000	

3.5 Agreement to pay the regulator's costs

- 3.5.1 Agreement is given to paying the regulator's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the regulator's invoice:

Recoverable costs	Amount
Investigation, legal & administrative costs associated with the alleged contravention & proposed undertaking	\$ 1115
Compliance monitoring costs	\$ 1730
Publication costs	\$ Nil

Total Amount	\$ 2845
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3.6 Minimum spend

3.6.1 The Company acknowledges the minimum spend for this undertaking will comprise of the:

(The amounts below should correspond with total amounts from terms 3.2–3.5 above)

Estimated total value of	Minimum spend
Benefits to workers/others	\$ 130000
Benefits to industry	\$ 14000
Benefits to community	\$ 10000
Regulator costs	\$ 2845
Estimated total minimum spend for the undertaking	\$ 156845

3.6.2 The Company agrees 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 regulator.

3.7 A commitment to establish and maintain (or maintain if a system already exists) a work, health and safety management system (WHSMS)

The Company is committed to maintaining a Work Health Safety Management System compliant with the Act. Byrncut is committed to effectively exercising obligations and duties imposed on a principal contractor by the Work Health Safety Act 2012 (SA).

3.8 A commitment to ensure the WHSMS is audited by third party auditors

Details of the auditor's qualifications against the stated requirements will be provided with audit reports submitted to the regulator.

3.9 A commitment to provide a copy of each finalised WHSMS audit report to the regulator

3.9.1 It is acknowledged that audit reports received from the auditor will be sent to the regulator within 30 days of the audit along with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.

3.9.2 It is acknowledged that within 30 days of receipt of the auditor's written report, the regulator will be advised of the intended action in addressing each of the report's recommendations.

3.10 A commitment to implement the recommendations from these audits
(unless otherwise negotiated with the regulator)

3.10.1 The recommendations resulting from the WHSMS audit will be fully within six months of receiving the audit report, unless the regulator offers a variation of the undertaking due to the actions being unreasonable.

SECTION 4: OFFER OF UNDERTAKING

EITHER

I offer this undertaking and commit to the terms herein.

Signed: _____
[Person]

[Print name]

[Position]

Dated at _____ this _____ day of _____ 20_____

OR

As a duly authorised person of Prominent Hill Operations Pty Ltd I offer this undertaking and commit Prominent Hill Operations Pty Ltd to the terms herein.

Signed: _____


Gabrielle Iwanow

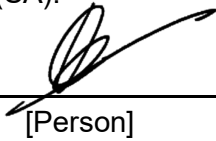
General Manager, Prominent Hill

Dated at _____ WA this 22_____ day of August _____ 2022_____

SECTION 5: ACCEPTANCE OF UNDERTAKING

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2012* (SA).

Signed:


[Person]

Martyn Campbell

[Print name]

Executive Director

[Position]

Dated at Keswick this 23rd day of August 2022