

FILED IN COURT

10 FEB 2026



*Label in
of 10/2/26*

1 JBLW

Form 40 (version 8)
UCPR 35.1

AFFIDAVIT OF JOSEPH HAYES DATED 10 FEBRUARY 2026

*And
with
objection*

COURT DETAILS

Court Supreme Court of NSW
Division Equity
List Corporations List
Registry Supreme Court Sydney
Case number 2025/00300503

TITLE OF PROCEEDINGS

Plaintiff **Coal Mines Insurance Pty Ltd (ACN 000 011 727)**

Defendant **Tahmoor Coal Pty Ltd (ACN 076 663 968)
(Administrators Appointed)**

FILING DETAILS

Filed for **Applicant**
Filed in relation to Interlocutory Process
Legal representative Roger Dobson
Legal representative reference N/A
Contact name and telephone Roger Dobson, +61.2.8272.0500
Contact email rdobson@jonesday.com

AFFIDAVIT

Name Joseph Hayes
 Address 9 Weetalibah Road, Northbridge New South Wales 2063
 Occupation Insolvency Practitioner
 Date 10 February 2026

I say on oath:

- 1 I am a partner of the restructuring advisory firm Wexted Advisors in Australia and have been practising in the areas of restructuring, insolvency and financial analysis for over 25 years. During that time, I have been involved in and conducted receiverships, voluntary administrations and liquidations of many companies in Australia and have been appointed as an administrator, receiver and manager and liquidator of many of these companies.
- 2 Generative artificial intelligence was not used to generate:
 - a. this affidavit; or
 - b. any annexure/exhibit to this affidavit prepared or created to the deponent's knowledge for the purposes of these proceedings.
- 3 On 9 February 2026, I, together with Christopher Johnson of Wexted Advisors (together, the **Administrators**) was appointed as joint and several voluntary administrator of Tahmoor Coal Pty Ltd (ACN 076 663 968) (Administrators Appointed) (the **Company**).
- 4 I am authorised by Chirstopher Johnson to make this affidavit on his behalf in addition to my own. Where I depose below to the view or views of the Administrators, they are the views which I and Mr Johnson hold at the date of swearing this affidavit.
- 5 I make this affidavit in support of the Interlocutory Process filed herewith. I request that the hearing of the winding up application be adjourned under 440A(2) of the *Corporations Act 2001* (Cth) (the **Corporations Act**) (the **Application**) for a period of two weeks to allow the Administrators to diligently explore options for the sale or recapitalisation of the Company and/or its business.
- 6 In this affidavit, I refer to documents contained in an electronic PDF titled "**Exhibit JH-1**" by reference to page numbers at the bottom right-hand corner of the exhibit.
- 7 Except where otherwise stated, the statements made in this affidavit are made on the basis of my own knowledge and belief. Where I depose to matters from



information obtained from the Company's books and records, publicly available sources, or from information provide to me by others, I believe that information to be true and correct.

Appointment of Administrators

8 On 9 February 2026, I, together with Christopher Johnson of Wexted Advisors, was appointed as joint and several voluntary administrator of the Company. A copy of the Instrument of Appointment of Joint and Several Administrators is at at page 2 of **Exhibit JH-1**.

9 I was contacted in April 2025 by Mr Damien Hodgkinson of Olvera Advisors concerning the potential appointment of administrators to the Company's parent. Mr. Hodgkinson provided pre-appointment financial advisory services to the Company. Over the course of 2025 I had approximately 10 meetings with Mr. Hodgkinson and, in the course of those meetings concerning the Company's parent, became familiar with the financial position and issues of the Company.

Administration Funding

10 Following the appointment, on 10 February the Administrators, the Company and Clydesdale Engineering Limited (Company number 09907518) (as Lender) entered into a Funding Agreement.

11 The Funding Agreement provides for AUD \$40,000,000 of Loans (as defined in the Funding Agreement) to be advanced to the Administrators upon their written request to fund the costs and expenses of the administration, including employee entitlements. A copy of the Funding Agreement is at pages **3-12** of **Exhibit JH-1**.

12 The first advance under the Funding Agreement in an amount of AUD \$350,000 was remitted to the Administrators' trust account this morning. I understand that a further AUD \$150,000 is in progress with a further \$500,000 to follow later today.

Conduct Following Appointment

13 Following the appointment yesterday, in addition to entering into the Funding Agreement, the Administrators have taken the following actions:

- a. taken control of the Company's property;
- b. notified insurers of their appointment;
- c. prepared a circular to employees concerning their appointment;



- d. reviewed and approved internal communications concerning the appointment that will be issued to staff shortly;
- e. spoken to staff concerning key operational issues and matters surrounding systems, treasury and creditor liaison and management;
- f. made arrangements with the Lender to ensure payments are promptly made to employees for the payment of wages in the amount of \$435,000;
- g. attended to certain statutory notifications;
- h. made contact with the solicitors for the first-ranking secured creditor; and
- i. prepared a media release concerning their appointment.

14 In light of the foregoing matters, the Administrators are comfortable that they have the support of management in order to run the business in a stable and orderly fashion during the administration.

15 The Administrators are also beginning to solicit proposals from investment bankers for an international sale and marketing campaign of the business or its assets.

Objectives of the administration

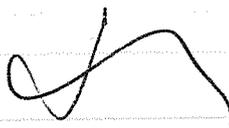
16 The Company operates in the Bulli coal seam, producing premium-quality hard coking coal for steelmaking, which is transported via rail to Port Kembla for Australian domestic customers and export customers.

17 It is one of the largest local employers with over 400 staff and contractors. It also supports many local and regional businesses and services in the Wollondilly Shire area.

18 While the mine has paused operations, I understand that employees are fully paid and on stand-by to resume operations in the event that Company's business can be sold or recapitalised pursuant to the administration process.

19 The Funding Agreement will provide the Administrators with the resources to diligently explore avenues, for maximising the chances of the company, or as much as possible of its business, continuing in existence. I anticipate that this will include engaging with an investment banker to assess the viability of conducting an international sale and marketing campaign for the business or its assets.

20 In my experience as an external administrator, a funded administration process that allows for the international marketing of coal assets is more likely to result in a




better return for the company's creditors than an immediate and unfunded winding up.

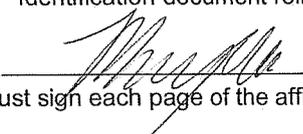
- 21 The Administrators seek the proposed adjournment to facilitate their expedient exploration of the viability of a sale or recapitalisation process to enhance outcomes for creditors, including by maximising the prospect of continued employment for the Company's significant workforce.

SWORN at Sydney
 Signature of deponent 
 Name of witness Jessica Brycki
 Address of witness Level 41 88 Phillip Street Sydney NSW 2000
 Capacity of witness Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent.
~~I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.~~
- 2 I have known the deponent for at least 12 months.
~~I have confirmed the deponent's identity using the following identification document:~~

 Identification document relied on (may be original or certified copy)

Signature of witness 
 Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.