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## ELIZABETHAE II REGINAE

A.D. 1961

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### No. 36 of 1961

An Act to approve and ratify an Indenture made between the State of South Australia and Harmac (Australia) Limited relating to the establishment of a pulp and paper mill in the State of South Australia and to provide for carrying that Indenture into effect and for other purposes.

[Assented to 9th November, 1961.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Pulp and Paper Mill (Hundred of Gambier) Indenture Act, 1961". Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

"the company" means the company incorporated in the State under the name of Harmac (Australia) Limited having its registered office at the time of the passing of this Act at 134 Waymouth Street, Adelaide, in the State and includes its successors and assigns ;

"the Indenture" means the indenture set out in the schedule to this Act;

"the mill" means the pulp and paper mill established pursuant to the Indenture including adjacent structures equipment and facilities for the production and distribution of electricity, for the carriage treatment and storage of water and effluent, and for the trans-

portation and storage of raw materials fuel and manufactured products, and offices ;

“the mill site” means the land upon which the mill is erected and all land owned by the company adjacent to the mill ;

“the State” means the State of South Australia.

Ratification of indenture.

3. The Indenture is hereby approved and ratified and shall, notwithstanding any other Act or law or any regulation, proclamation or order, be carried out and take effect as though the provisions thereof had been expressly enacted in this Act.

Local government rates.

4. (1) The rates payable to the council of the district council district or municipality in which the mill is situated in respect of the mill site and the mill shall be—

(a) for each of the years ending on 30th June, 1963 and 30th June, 1964—the sum of £2,500 ;

(b) for each of the years ending on 30th June, 1965, 30th June, 1966 and 30th June, 1967—the sum of £3,500 ; and

(c) for the year ending on 30th June, 1968 and each subsequent year—the sum of five thousand pounds or such other sum as the Council fixes in accordance with subsection (2) of this section.

(2) In any year after the year ending on 30th June, 1968, the Council may by resolution fix the rates payable by the Company for that year on the mill site and the mill at a sum in excess of five thousand pounds : Provided that the sum so fixed shall not exceed—

(a) a sum bearing to five thousand pounds the ratio which the basic wage in force at the time of the resolution bears to the sum of £14 3s. (being the basic wage at the date of the commencement of this Act) ; or

(b) if no basic wage is in force when the Council passes the resolution, a sum bearing to five thousand pounds a ratio determined by reference to a cost of living or wage index which is agreed upon between the Company and the Council, or in default of such agreement, is determined by arbitration.

In this subsection “basic wage” means weekly basic wage for South Australia for male adults as determined by the Commonwealth Conciliation and Arbitration Commission.

(3) Payment of the amounts prescribed in this section shall be a discharge of all liability of the company for general, particular, special, separate or other rates in respect of the mill site and the mill.

(4) The provisions of this section shall have effect notwithstanding any other enactment, or any rate at any time declared or levied by any district or municipal council.

5. (1) The rights granted under the Indenture to the company authorizing the company to maintain repair remove and replace pipelines and electrical transmission lines on over or under any Crown land, road, foreshore or sea-bed, and any pipelines or electrical transmission lines or other structures erected or laid down by the company in exercise of those rights shall not be ratable property within the meaning of the Local Government Act, 1934-1959. Exemption  
from rates.

(2) The mill and the mill site and the pumping station or pumping stations shall not be assessable for or chargeable with water rates or sewerage rates under the laws of the State. But if, on the application of the company, water is supplied to the mill or mill site or a pumping station from waterworks of the Government of the State or if the mill or mill site or pumping station is connected with a sewerage system of the Government of the State, the company shall pay a reasonable price for the water or the sewerage facilities so provided. If the company and the Minister of Works do not agree on the price to be paid it shall be determined by arbitration.

6. The company shall not be liable for discharging effluent from the mill into the sea, or for discharging smoke, dust or gas from the mill into the atmosphere or for creating noise or odours or for any alleged consequences of such discharge or creation, if such discharge or creation is reasonably necessary for the efficient operation of the works of the company and is not due to negligence on the part of the company, its servants or agents. Effluent.

7. (1) Notwithstanding anything to the contrary in any other Act or law, the State may, under the name of "The State of South Australia"— Legal  
proceedings

(a) sue and be sued and be a party to legal proceedings in connection with any matter arising out of or relating to this Act or the Indenture ;

(b) agree with the company to submit any dispute or difference between the State and the company arising

out of or relating to the Indenture to arbitration under the laws relating to arbitration for the time being in force in the State ;

(c) be a party to any such arbitration.

(2) In any legal proceedings or arbitration to which the State is a party under subsection (1) of this section the practice and procedure and the rights of the parties shall, as nearly as possible, be the same and judgment may be given and costs awarded on either side as in legal proceedings or an arbitration between subject and subject.

(3) The Treasurer shall out of money provided by Parliament for the purpose satisfy any award order or judgment for the payment of money made or given against the State in any such proceedings or arbitration.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Governor's Deputy.

## SCHEDULE.

## THE INDENTURE.

THIS INDENTURE made the 12th day of October one thousand nine hundred and sixty-one BETWEEN THE STATE OF SOUTH AUSTRALIA (hereinafter referred to as "the State") of the one part AND HARMAC (AUSTRALIA) LIMITED a company incorporated in the State of South Australia and having its registered office in that State at 134 Waymouth Street, Adelaide (hereinafter referred to as "the company" which expression shall include the successors and assigns of Harmac (Australia) Limited) of the other part :

WHEREAS the company proposes, with the approval of the State, to establish a pulp and paper mill near Mount Gambier and for that purpose has made certain preliminary arrangements :

AND WHEREAS the establishment and operation of the said mill would promote the further development of the South-Eastern portion of the State and be beneficial to the State as a whole and would provide an assured market for products of forests established within the State and would provide a use for material which might otherwise be wasted :

AND WHEREAS for the proper conduct of its operations it is necessary that the company should be provided with certain facilities and be granted certain interests in land, and certain rights and powers :

AND WHEREAS the Government of the State desiring to assist the company to establish and operate the said mill has agreed, subject to the ratification of this Indenture by Parliament, to provide such facilities and to grant such interests in land and such rights and powers :

NOW THIS INDENTURE WITNESSETH that the parties hereto covenant and agree with each other as follows :—

1. (1) In this Indenture, unless the context otherwise requires— Interpretation.

"Crown land" means land owned by the Crown ;

“the mill” means the pulp and paper mill to be established pursuant to this Indenture including adjacent structures equipment and facilities for the production and distribution of electricity, for the carriage treatment and storage of water and effluent, and for the transportation and storage of raw materials fuel and manufactured products, and offices ;

“the mill site” means the land upon which the mill is erected and all land owned by the company adjacent to the mill.

(2) This Indenture shall be interpreted according to the laws for the time being in force in the State.

**Operation of indenture.**

2. (1) The clauses of this Indenture other than this clause shall not come into operation unless the Parliament of the State passes a Bill to approve and ratify this Indenture.

(2) If such a Bill is so passed the said clauses shall, subject to subclause (3) of this clause, come into operation and become binding on the parties hereto upon the day when such Bill becomes operative as an Act.

(3) If the company should find it is impracticable or inexpedient to construct a mill as provided in clause 3 of this Indenture and on or before the thirtieth day of June, one thousand nine hundred and sixty-three gives notice of this fact in writing to the Treasurer of the State, the company and the State shall be discharged from their respective obligations under this Indenture and neither of the parties hereto will have any claim against the other with respect to anything arising under this Indenture.

**Construction of mill.**

3. (1) The company will construct and operate a pulp and paper mill within the Hundred of Gambier.

(2) In the design construction equipment and operation of the mill the company will comply with accepted modern standards and practices applicable to pulp and paper mills.

**Land, roads and railways.**

4. The State will if so requested by the company—

(a) sell to the company at a price to be determined by the Land Board one or more pieces of Crown land situated in the vicinity of Ewens Ponds or Deep Creek and not exceeding five acres in all and comprising a suitable site or sites for a pumping station or stations ;

- (b) construct and maintain at the expense of the State a suitable heavy duty road to connect the mill site with a main road ;
- (c) construct and maintain at the expense of the State a railway connecting the mill with the South Australian railway system.

5. (1) The company will from time to time inform the Treasurer of the State of the number of houses which the company desires to be provided for the staff and employees at the mill and of the dates upon which the provision of such houses is desired. Housing.

(2) The State will build or cause to be built in reasonable proximity to the mill the number of houses so indicated by the company provided that the State shall not be obliged to build or cause to be built more than five hundred houses in all under this clause.

(3) The State will arrange that the houses built under this clause shall be offered to employees of the company as tenants or purchasers upon reasonable terms and conditions.

6. (1) Subject to subclauses (2), (3), (4) and (7) of this clause the company may without payment of any rent, royalty or any other charge, and at its own expense, construct, erect or lay down— Pipelines and electrical transmission lines.

(a) on over or under any Crown land, road, foreshore, or part of the sea-bed, pipelines to the mill from any pumping station or stations erected by the company and from the mill into the sea ;

(b) on over or under any Crown land or road electrical transmission lines together with poles and other ancillary structures and equipment between the mill and any pumping station or stations erected by the company. Pipelines and electrical transmission lines.

(2) A pipeline or electrical transmission line shall not be laid on over or under any road except in accordance with plans and specifications approved in writing by the Minister of Roads after consultation with the municipal or district council in whose area the road is situated.

(3) A pipeline or electrical transmission line shall not be laid on over or under any Crown land except in accordance with plans and specifications approved in writing by the Minister of Lands.

(4) A pipeline shall not be laid on over or under the foreshore or sea-bed except in accordance with plans and specifications approved in writing by the Minister of Marine after such consultations as he considers necessary with the South Australian Harbors Board and any municipal or district council which has the control and management of the part of the foreshore concerned.

(5) The company may maintain, repair, remove and from time to time replace any pipelines, electrical transmission lines, posts, structures or equipment constructed, erected or laid down under this clause.

(6) For the purpose of laying down, maintaining, repairing, removing, or replacing any such pipelines, electrical transmission lines, posts, structures or equipment, the company may enter and remain on any road or Crown land with workmen vehicles equipment and materials and may do anything reasonably necessary for the exercise of any power conferred on the company by this clause.

(7) In the exercise of any power conferred on the company by this clause the company shall inflict as little damage as may be and in all cases shall with all convenient speed reinstate, replace and make good the road or surface of any Crown land or foreshore concerned as the case may be.

**Water.**

7. (1) The company may without payment draw from Ewens Ponds and Deep Creek in the Hundred of MacDonnell such quantities of water as it requires for the purposes of the construction and operation of the mill and may use such water for those purposes.

(2) The State will not, without the consent of the company grant to any other person any right to draw water from the said Ewens Ponds or Deep Creek.

**Discharge of effluent.**

8. The company may discharge effluent from the mill into the sea at any point below low water line from a pipe laid down in accordance with clause 6 of this Indenture.

**Approvals.**

9. (1) A minister shall not unreasonably refuse to give any approval applied for under this Indenture.

(2) Any approval to be given under this Indenture shall be deemed to be duly given if given by notice in writing to the company signed by the Treasurer or Acting Treasurer of the State.



IN WITNESS WHEREOF the parties hereto have executed  
this Indenture.

His Excellency the Governor of  
South Australia signed this Indenture  
and caused the public seal of the State  
to be hereto affixed this 12th day of  
October 1961 in the presence of

L. KING.

EDRIC BASTYAN,  
Governor.

THE COMMON SEAL of Harmac  
(Australia) Limited was hereto affixed  
by authority of a resolution of the  
Board this 5th day of October 1961 in  
the presence of

E. ALSTERGREN, Director.

P. E. FITZGERALD, Secretary.