



Mine fined \$720,000 for causing grievous bodily harm and death to workers

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On 12 April 2024, the defendant, a mine operator, was sentenced for offending arising out of two separate incidents which occurred during late 2019.

The first offence comprised a failure by the mine operator to ensure that the risk to coal mine workers at a coal mine it operated was at an acceptable level between 18 August 2019 and 8 September 2019. That failure caused grievous bodily harm to a worker on 7 September 2019.

The second offence comprised a failure by the mine operator to ensure that the risk to coal mine workers at the same coal mine was at an acceptable level between 12 August 2019 and 26 November 2019. That failure caused the death of a coal mine worker on 25 November 2019.

The basis of each offence was a failure by the defendant to ensure that work health and safety procedures at the coal mine it operated were implemented. Those failures exposed coal mine workers to an unacceptable level of risk, which culminated in tragic consequences for two men. On 7 September 2019, a coal mine worker (aged 37) suffered grievous bodily harm after being crushed by falling strata and, less than three months later, another coal mine worker (aged 57) lost his life after being crushed by falling strata.

Sentencing remarks

On 24 June 2024, AJ Magistrate Kennedy handed down his decision on the penalty to be imposed.

His Honour outlined the basis of the two charges, the agreed facts and the applicable law (including the object of the *Coal Mining Safety and Health Act 1999* and the sentencing principles outlined in the *Penalties and Sentences Act 1992*).

His Honour also had regard to the factors outlined in the decisions of *Nash v Silver City Drilling* and *Steward v Mac Plant and Mac Farms* (including the potential consequences of the risk, the probability of the risk, the availability of steps to lessen, minimise or remove the risk, whether those steps are complex and burdensome or only mildly inconvenient and the seriousness of the offence in the context of other offences created by the Act).

His Honour said that he did not accept that the matter sat at the low to midpoint of seriousness in terms of general deterrence. He stated that general deterrence was an important consideration as all entities should be deterred from repeating the defendant's offending.

Taking into account the mitigating features raised by the defendant his Honour imposed the following final penalties:

- A \$240,000 fine for the offending which caused grievous bodily harm to a coal mine worker;
- A \$480,000 fine for the offending which caused death to a coal mine worker.

No convictions were recorded.

An order was made that the defendant had 8 months to pay the fine (a total amount of \$720,000).

OWHSP contact: enquiries@owhsp.qld.gov.au

Court Report

General

Industry

Mining and quarrying

Date of offence	12 August 2019 to 26 November 2019
Injury	Grievous bodily harm and death
Court	Mackay Industrial Magistrates Court
Magistrate or judge	A/ Magistrate Kennedy
Decision date	24 June 2024
Company	
Legislation	<i>Coal Mining Safety and Health Act 1999</i>
Plea	Guilty
Penalty	\$240,000 (offending causing grievous bodily harm); \$480,000 (offending causing death)
Maximum fine available	\$2,001,750 (for each offence)
Professional and legal costs	N/A
Court costs	N/A
In default period	N/A
Time to pay	8 months
Conviction recorded	No