

20 December 2021

## Hamiltons Blasting Services and David Hamilton fined and convicted over breaches of WHS Act

On 17 December 2021 the District Court of New South Wales convicted and fined Hamiltons Blasting Services Pty Ltd (HBS) \$300,000 for an offence under section 31 (Category 1) of the *Work Health and Safety Act 2011* (the WHS Act) for being reckless to the risk of workplace death or serious injury. This is only the second conviction for a Category 1 offence recorded in New South Wales.

HBS was also convicted and fined \$12,000 for failing to notify the Regulator of the incident in accordance with section 15 of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (the WHSMPS Act) and \$12,000 for disturbing the incident scene contrary to section 17 of the WHSMPS Act.

In addition, HBS working Director David Hamilton was fined \$22,500 for breaching section 32 (Category 2) of the WHS Act by failing to ensure that his acts or omission did not adversely affect the health and safety of others in accordance with section 28 of the WHS Act.

The convictions relate to a shottfiring incident which occurred at Albury Quarry, about 15 kilometres north of Albury, on 10 April 2018 when workers and members of the public were exposed to risks to their health and safety as a result of flyrock being ejected after a blast. The Resources Regulator produced a learning from investigations animation about the incident at Albury Quarry, which is available on the [Regulator's YouTube channel](#).

HBS were engaged by Burgess Earthmoving Pty Ltd (BEPL), the operator of Albury Quarry, to provide shottfiring services at the quarry. BEPL was previously convicted of two Category 2 offences for its failures in relation to the same incident.

On 27 September 2021 HBS and David Hamilton entered pleas of guilty to the offences and on 10 December submissions on sentence were made before Judge Russell of the District Court. Judge Russell's reasons on sentence can be found at [McColm v Hamiltons Blasting Services Pty Ltd; McColm v Hamilton \[2021\] NSWDC 688](#)

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