

Prosecution Summary of Conviction

Apollo Construction & Renovation Pty Ltd (ACN: 604 861 823)

LEGISLATION:		<i>Work Health and Safety Act 2020</i> <i>Work Health and Safety (General) Regulations 2022</i>				
Charge	Charge Number	Sentenced Date	Regulation	Section	Penalty	Offence Date
1	PE40961/2024	16/08/2024		38(1)	\$60,000	24/07/2022
2	PE40962/2024	16/08/2024		39(1)	(Global fine 1 & 2)	24/07/2022
3	PE40963/2024	16/08/2024	299(1)		\$30,000	24/07/2022

BREACH(ES)

Offence 1: Being a person who conducts a business or undertaking who failed to ensure that the regulator was notified immediately after becoming aware of a notifiable incident arising out of the conduct of the business or undertaking had occurred, contrary to section 38(1) of the *Work Health and Safety Act 2020 (WA)* (**the Act**).

Offence 2: Being the person with management or control of a workplace at which a notifiable incident had occurred who failed to ensure, so far as was reasonably practicable, that the site where the incident occurred was not disturbed until an inspector arrived at the site or any earlier time that an inspector directed, contrary to section 39(1) of the *Work Health and Safety Act 2020 (WA)*.

Offence 3: Being a person conducting a business or undertaking that included the carrying out of the high risk construction work who failed to, before high risk construction work commenced, ensure that a safe work method statement for the proposed work was prepared, contrary to regulation 299(1) of the *Work Health and Safety (General) Regulations 2022*.

DETAILS

In 2021, owners of a residential home engaged Apollo Construction & Renovation Pty Ltd (**Apollo Construction**) to renovate the patio at their home (**Workplace**). The director of Apollo Construction was responsible for management or control of the Workplace.

On 24 July 2022, Apollo Construction engaged a casual labourer (Worker) to work at the Workplace under the supervision of the director. The Worker was directed by the director to perform tasks on the roof of the patio, which was at a height of more than 2 metres above the ground. Another worker present at the Workplace was engaged to install a drainpipe.

Incident

On 24 July 2022, the renovation work had almost been completed. There were small gaps on the roof of the patio that required sealing with small pieces of steel. The Worker was instructed by the director to go onto the roof of the patio for sealing purposes. At approximately 11.20am the labourer was working

alone on the roof while the director and other worker were working at different areas of the Workplace. While on the roof the labourer fell onto a polycarbonate sheet causing it to break. He fell through the broken polycarbonate sheet and landed on the ground below, a fall distance of approximately 3,825mm.

The Worker suffered a spinal injury through the fall and was required to have immediate treatment as an in-patient in hospital. He is now a paraplegic. The incident in which the Worker fell and was injured was a 'notifiable incident' within the meaning of s35 of the Act.

Incident notification

On 24 July 2022, Apollo Construction, through its director was aware of the notifiable incident that occurred at the Workplace. However, it did not notify the regulator when it became aware of the incident.

On 10 August 2022, WorkSafe became aware of the incident following a report to it by a lawyer representing the Worker.

On 12 August 2022, a WorkSafe Inspector contacted the director by phone and told him of the requirement to notify WorkSafe immediately after becoming aware that a notifiable incident had occurred.

On 15 August 2022, WorkSafe was notified of the incident through completion of an online form by the director.

Preservation of incident site

On 16 August 2022, a WorkSafe inspector attended the Workplace to inspect the incident scene. The inspector observed that the roof of the patio through which the Worker had fallen had already been completed and the broken polycarbonate sheet had been repaired or replaced.

Apollo Construction did not ensure, so far as was reasonably practicable, that the Workplace was not disturbed until a WorkSafe inspector arrived at the site or any earlier time that an inspector directed.

Safe work method statement

Regulation 291(a) of the Work Health and Safety (General) Regulations 2022 (the Regulations) defines high risk construction work to mean construction work that involves a risk of a person falling more than 2 metres.

Regulation 299(1) requires that a safe work method statement be prepared before high construction work commences.

Regulation 299(2) details content that must be included in a safe work method statement, such as a description of the measures to be implemented to control risks.

Apollo Construction was required to have a safe work method statement prepared before commencing work on the roof of the patio at the Workplace which was at a height of more than 2 metres. Apollo Construction did not ensure that a safe work method statement was prepared in contravention of regulation 299(1).

OUTCOME	Convicted in absence under s55 of the <i>Criminal Procedure Act 2004</i>
FINE	\$90,000
COSTS	No costs order
COURT	Magistrates Court of Western Australia – Perth