

## Prosecution Summary of Conviction

### PTG Construction and Development Pty Ltd (ACN: 135 532 240)

LEGISLATION:		<i>Work Health and Safety (General) Regulations 2022</i>				
Charge	Charge Number	Sentenced Date	Regulation	Section	Penalty	Offence Date
1	AR8341/2024	26/08/2024	298(1)		\$18,000	09/05/2022
2	AR8342/2024	26/08/2024	298(1)		(Global fine 1 & 2)	9-13/05/2022

#### BREACH(ES)

Offence 1: Being a person with management or control of a workplace at which construction work was carried out failed to ensure, so far as is reasonably practicable, that the workplace was secured from unauthorised access. Regulation 298(1) - *Work Health and Safety (General) Regulations 2022*

Offence 2: Being a person with management or control of a workplace at which construction work was carried out failed to ensure, so far as is reasonably practicable, that the workplace was secured from unauthorised access. Regulation 298(1) - *Work Health and Safety (General) Regulations 2022*

#### DETAILS

In December 2020, PTG Construction and Development Ltd (**PTG Construction**) was engaged by a company to build five single storey residential units in Maddington (**Site**). PTG Construction was a person with management or control of the Site. The Site was in close proximity to existing high density housing where families with young children lived and was also very close to Albany Highway and Gosnells Road West (which is a highly foot trafficable area) as well as a school route bus stop.

PTG Construction failed to ensure, so far as is reasonably practicable, that the Site was secured from unauthorised access.

On 9 May 2022, a 12 year boy was fatally injured after entering the Site (**Incident**). In a compelled record of interview conducted on 10 November 2023, PTG Construction Director and the Site's supervisor admitted that he was aware that, prior to the Incident, the Site was regularly broken into due to the theft of building materials from the Site, missing parts of the security fence around the Site and the presence of drug paraphernalia within the Site.

Other PTG Construction staff who were shown photographs of the Site's security fence during their compelled records of interview admitted that persons could gain access into the Site through some of the gaps in the security fence.

**Charge 1:**

On 9 May 2022 the security gates to the Site via the driveway access were left open after hours while the site was otherwise unattended. Children were seen playing in the Site on the evening of 9 May 2022 having accessed the Site via the open gate. Evidence from neighbours around the Site noted that the gate had been left consistently open and unlocked since construction commenced at the Site.

PTG Construction did not have a system for ensuring that the gate to the Site security fence was closed and locked when unattended.

**Charge 2:**

There were large gaps between various parts of the security fence around the Site including, missing fence panels, fence panels not correctly interlocked and fence panels that had been moved to allow access. Photographs taken by WorkSafe Inspectors in the days following the Incident, show how insufficient the temporary security fencing around the Site was to deter unauthorised access.

On 13 May 2022, PTG Construction complied with a Section 191 Improvement Notice issued by WorkSafe on 12 May 2022 in relation to the inadequacy of the security fence. In particular, they filled in the gaps in the fencing adjacent to Gosnells Road West, fenced around the tree and bushes they had not previously fenced around adjacent to the intersection of Albany Highway and Gosnells Road West, and secured and lined the area of the fence with black plastic that was facing the local access road off Virginia Avenue

<b>OUTCOME</b>	Pleaded guilty – convicted and fined
<b>FINE</b>	\$18,000
<b>COSTS</b>	\$1500
<b>COURT</b>	Magistrates Court of Western Australia – Armadale