IN THE DISTRICT COURT
AT NEW PLYMOUTH

I TE KŌTI-Ā-ROHE
KI NGĀMOTU

CRI-2020-021-000596
[2023] NZDC 11509

WORKSAFE NEW ZEALAND
Prosecutor

v

TREE AWARENESS MANAGEMENT LIMITED
Defendant

Hearing:	8 March 2023
Appearances:	K Sagaga for the Prosecutor N Beadle for the Defendant
Judgment:	15 June 2023

RESERVED DECISION OF JUDGE R E NEAVE AS TO SENTENCING

Introduction

[1] The forestry industry is well known as being potentially dangerous for those working within it. Frequently accidents occur which have fatal consequences. As a result there is a very detailed regime with checks and balances designed, as far as practicable, to eliminate the risks to those working in that industry.

[2] Tree Awareness Management Limited ("TAML") has pleaded guilty to a charge which, in essence, relates to its failure to audit fully the safety plans of those contracted to it. To some extent, and in a slightly different context, this case involves

the age old question "who watches the watchers".[1] The prosecution says this was TAML's job and it failed properly to do so.

[3] That is more than a little ironic in this case because although TAML has failed in its duty, for the most part, those that it was supposed to be watching did the job properly, although I understand Skyline may also be facing charges under the legislation.

Background

[4] The background to this offending is the tragic death of Mr Nathan Paikea. It needs to be stated at the outset that TAML bears no responsibility for the death of Mr Paikea. It is acknowledged by all that any breaches of the legislation are in no way causative of Mr Paikea's death.

[5] The fatal accident occurred in a forestry block in the Tututawa Forest ("the block") about 20 kms east of Stratford in Taranaki. The block is privately owned by Tututawa Trees Limited.

[6] Although Tututawa Trees owns the block, TAML is a limited company and a PCBU.[2] TAML is in the business of forestry ownership and management but does not manage the field operations in respect of forestry blocks. Amongst the large amount of forest managed by TAML was the block in question.

[7] Skyline Harvest Systems Limited ("Skyline") is a limited company and also a PCBU in the business of forestry and logging.

[8] In March 2016 Skyline was engaged by TAML to harvest the standing timber contained in the block. In its turn Skyline sub-contracted Mr Paikea to clear fell a significant area of steep hillside trees in the block.

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[1] The original phase is "quis custodiet ipso custodes?" from Juvenal's satires. It is usually applied to the problem of controlling the actions of those in power.

[2] The Health and Safety at Work Act 2015 describes a PCBU as a person conducting business or undertaking – see s 17. The statutory obligations imposed on the defendant in this case arise out of its status as a PCBU.

[9] TAML was required to ensure that Skyline had in place a documented safety management system before commencing operations and was required periodically to audit the effectiveness of the system.

[10] Although the original summary of facts was a rather more expansive document, the charge against TAML was eventually amended and the key allegations became that on multiple site visits the company did not check whether Skyline's observations of its workers were being carried out. Whether the Skyline crew were self-auditing and did not check the health and safety paperwork when it made the site visits. Ultimately the failings by TAML are summarised in para [74] of the summary of facts:

> 74. For the period 31 January 2019 to 30 July 2019, TAML's ongoing supervision as required by section 36(3)(f) HSWA of Skyline's operation fell short of the standard reasonably to be expected of a principal forestry manager in the context of a contractor managed on site by a COMPETENZ trainer and assessor in that, … TAML did not check:
>
> a. whether SBO's of its workers were being carried out by Skyline when it visited the site on 31 January 2019, 20 February 2019 and 15 April 2019.
>
> b. whether Skyline's crew was self-auditing when it visited the site on 31 January 2019, 20 February 2019, and 12 June 2019.
>
> c. check TAML's health and safety paperwork when it visited the site on 30 June 2019, 16 July 2019, 24 and 30 July 2019.

The statutory regime

[11] The charge to which TAML pleaded guilty arises from its duty under s 36(1)(a) and has been laid under ss 49(1) and 49(2)(c) of the Health and Safety at Work Act 2015. Those sections are as follows:

> **36 Primary duty of care**
>
> (1) A PCBU must ensure, so far as is reasonably practicable, the health and safety of—
>
> (a) workers who work for the PCBU, while the workers are at work in the business or undertaking;
>
> **49 Offence of failing to comply with duty**
>
> (1) A person commits an offence against this section if the person—
>
> (a) has a duty under subpart 2 or 3; and
>
> (b) fails to comply with that duty.
>
> (2) A person who commits an offence against subsection (1) is liable on conviction,—
>
> (c) for any other person, to a fine not exceeding $500,000.

[12] The sentencing criteria in relation to offending of this nature is set out in s 151(2):

> **151 Sentencing criteria**
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> ...
>
> (2) The court must apply the Sentencing Act 2002 and must have particular regard to—
>
> (a) sections 7 to 10 of that Act; and
>
> (b) the purpose of this Act; and
>
> (c) the risk of, and the potential for, illness, injury, or death that could have occurred; and
>
> (d) whether death, serious injury, or serious illness occurred or could reasonably have been expected to have occurred; and
>
> (e) the safety record of the person (including, without limitation, any warning, infringement notice, or improvement notice issued to the person or enforceable undertaking agreed to by the person) to the extent that it shows whether any aggravating factor is present; and
>
> (f) the degree of departure from prevailing standards in the person's sector or industry as an aggravating factor; and
>
> (g) the person's financial capacity or ability to pay any fine to the extent that it has the effect of increasing the amount of the fine.

[13] In addition, the standard principles and purposes of sentencing described in the Sentencing Act apply.

[14] It is also appropriate to consider the purpose of the Health and Safety at Work Act set out in s 3:

> **3 Purpose**
>
> (1) The main purpose of this Act is to provide for a balanced framework to secure the health and safety of workers and workplaces by—
>
> (a) protecting workers and other persons against harm to their health, safety, and welfare by eliminating or minimising risks arising from work or from prescribed high-risk plant; and
>
> (b) providing for fair and effective workplace representation, consultation, co-operation, and resolution of issues in relation to work health and safety; and
>
> (c) encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and assisting PCBUs and workers to achieve a healthier and safer working environment; and

(d) promoting the provision of advice, information, education, and training in relation to work health and safety; and

(e) securing compliance with this Act through effective and appropriate compliance and enforcement measures; and

(f) ensuring appropriate scrutiny and review of actions taken by persons performing functions or exercising powers under this Act; and

(g) providing a framework for continuous improvement and progressively higher standards of work health and safety.

(2) In furthering subsection (1)(a), regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety, and welfare from hazards and risks arising from work or from specified types of plant as is reasonably practicable.

[15] Most of the relevant authorities deal with charges under s 48. TAML was originally charged under that section but the plea was entered on an amendment to the charging document to an offence under s 49. This amendment reflects the lack of any causative link between TAML's conduct and breaches and the death of Mr Paikea. Indeed without a link to the death of Mr Paikea charges under s 49 were inevitably doomed to fail.

Sentencing regime

[16] The leading authority in relation to sentencing in this area remains *Stumpmaster v WorkSafe New Zealand*.[3] In particular, the guidelines found in para [53] apply:

> The new guideline bands are:
>
> low culpability : Up to $250,000
>
> medium culpability : $250,000 to $600,000
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> high culpability : $600,000 to $1,000,000
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> very high culpability : $1,000,000 plus

[17] It should be noted that the bands referred to in that decision relate to offences under s 48 where the maximum penalty is three times greater than that which applies under s 49.

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[3] *Stumpmaster v WorkSafe New Zealand* [2018] NZHC 2020.

[18] The bands clearly need adjusting given the different penalty regime under s 49. An adjustment exercise was carried out by Clark J in *East by West Company Limited v Maritime New Zealand*.[4]. Her Honour adopted the bands set out by Judge Kellar in *WorkSafe New Zealand v Alderson Poultry Transport Ltd*.[5]

Culpability	Range	Midpoint	% of maximum
Low	$0 - $85,000	$42,500	0 - 17%
Medium	$85,000 - $200,000	$142,500	17% - 40%
High	$200,000 - $335,000	$267,500	40% - 67%
Very high	$$335,000 - $500,000	$417,500	67% - 100%

[19] It should be noted that reparation is not a feature in this case. Given the lack of any causation between the breach and the death of Mr Paikea, there is no identifiable victim of TAML's offending.

Prosecution submissions

[20] The prosecution's submissions in relation to the assessment of culpability are as follows:

> 7.6 The reasonably practicable steps not taken by the defendant are set out in the charge.
>
> 7.7 It was reasonably practicable for the defendant to regularly review and audit Skyline's on-site health and safety systems and performance.
>
> 7.8 The defendant's ongoing supervision of Skyline's operation fell short of the standard reasonably to be expected of a principal forestry manager in the context of a contractor managed onsite by a COMPETENZ trainer and assessor. It did not check
>
> a) whether Safety Behavioural Observation Forms (**SBO**) of its workers were being carried out by Skyline when it visited on 31 January 2019, 20 February 2019 and 15 April 2019.
>
> b) whether Skyline's crew was self-auditing when it visited the site on 31 January 2019, 20 February 2019 and 12 June 2019.

[4] *East by West Company Limited v Maritime New Zealand* [2020] NZHC 191Z.
[5] *WorkSafe New Zealand v Alderson Poultry Limited* [2019] NZDC 25090 at [102].

c) Its own health and safety paperwork when it visited the site on 30 June 2019, 16, 24 and 30 July 2019.

7.9 These failures are more than merely administrative ones. They go beyond paperwork. The role of the principal in the notoriously dangerous forestry industry is to provide careful oversight. This is done through site inspections and audits to ensure that the contractor – Skyline – is following all relevant health and safety processes. This includes carrying out and documenting safe behaviour observations of workers and self-auditing. It involves carrying out and recording toolbox and tailgate meetings on days when work was being done by Skyline workers.

7.10 TAML did not do this well enough. Its failures indicate a lack of rigour in aspects of its supervision of its contractor, across a period of six months. This slackness cannot be excused by stating that it did its job in other respects. The industry requires a high level of contractor oversight for good reason. These records and documents exist to reduce the very real risks of serious harm.

An assessment of the nature and seriousness of the risk of harm occurring as well as the realised risk

...

7.12 It is noted for a s 49 charge (unlike charges under ss 47 and 48) there is no requirement to prove that workers were exposed to serious harm through the relevant failures. It is also accepted that there is no causative link between the victim's death and TAML's omissions. Nonetheless, the defendant's omissions here could have resulted in real harm. They were spread across several months, and multiple types of documentation, increasing the potential for errors by Skyline to compound. Skyline's operation involved multiple forestry workers, working and felling trees in a large block, including a significant area of steep hillside trees. Health and safety was critical and the risk to workers through substandard oversight was a real one.

[21] Counsel submits further:

The degree of departure from standards prevailing in the relevant industry

...

7.14 Relevant guidance (most obviously the Approved Code of Practice for Safety and Health in Forest Operations, December 2012 (**ACOP**) is widely available to assist duty holders in managing risks associated with felling trees.

7.15 It is clear from the ASOF that TAML understood its well documented obligations as a Principal. It simply did not meet them adequately.

The obviousness of the hazard

7.16 The hazards arising out of inadequate supervision of a forestry contractor are obvious. Death and serious injury follow when those tasked with oversight do not pay close enough attention.

The availability, cost and effectiveness of the means necessary to avoid the hazard

7.17 The steps available to mitigate the risk were simple and effective. The short point is that TAML could have, but did not, seek or obtain the relevant documentary assurances from Skyline in respect of key parts of its health and safety documentation, in several ways, across several months.

7.18 When considering the issue of cost, His Honour Judge Gilbert in the case of *WorkSafe v Stoneyhurst Timbers Limited,* stated:[6]

> [23] The fact that there is a moderate cost of remedying these issues is not an excuse. To suggest otherwise would be to sacrifice employee safety on the altar of the profitability which is something that is clearly unpalatable.

[22] In assessing the starting point, the prosecution refers to the following observation by Duffy J in *Department of Labour v Street Smart Ltd.*[7]

> [59] Workplace accidents are a cost to and burden on the community. The effect of accident compensation and the inability to sue for injuries suffered as a result of employers' carelessness means that the community carries the cost of those injuries.... There are good policy reasons, which accord the purpose and scheme of the Heath and Safety in Employment Act, for ensuring that where employers infringe, penalties must bite, and not be at a "licence fee" level.

[23] The prosecution submissions refer to similar cases as follows:

> WorkSafe New Zealand v Log 4 U Harvesting Limited[8]
>
> This is the most recent case involving a charge under s 49 and the forestry industry. The s 49 charge was failing to ensure that all workers were subject to pre-employment health assessments in accordance with the industry standards.
>
> In this case the victim, a worker for Log 4 U, died at work when the bulldozer he was driving tumbled down a steep ravine. Earlier that month he spent three days in hospital suffering from gastroenteritis. He was also taking a prescribed anti-depressant and was therefore subject to the standard advice to avoid operating heavy machinery until confident that his performance was not affected. No one in the company was aware that the victim was taking anti-

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[6] *WorkSafe New Zealand v Stoneyhurst Timbers Limited* [2016] NZDC 17200.
[7] *Department v Street Smart Ltd* HC Hamilton CRI-2008-419-26, 8 August 2008.
[8] *WorkSafe New Zealand v Log 4 U Harvesting Limited* [2021] NZDC 17117.

depressant. He did not disclose it in a health assessment taken a year earlier. Shortly after he was discharged from hospital, it was arranged for him to work on the forestry block on a casual basis. This included driving a bulldozer. He was not required to fill out any paperwork regarding his health even though it was known that he had recently been discharged from hospital; he was not required to undertake any health assessment; and no other enquiries were made as to his suitability to work.

The Court adopted a starting point of **$75,000**, placing the culpability in the **low culpability band**.

WorkSafe New Zealand v Bays Boating Limited[9]

The defendant owned and operated a business in the sale and service of boats. It contacted a licensed asbestos removal company to remove asbestos from the roof of a building that was going to be demolished to allow redevelopment work. The redevelopment company attended the site believing that all of the asbestos from the building had been removed. They sub-contracted the demolition company to carry out the demolition of the building. As the workers were not informed by the defendant that the remaining parts of the building contained asbestos, the building was not demolished in accordance with the Asbestos Regulations. The workers demolished the building without personal protective equipment, there were no controls in place to manage asbestos fibre release, and the material was not disposed of in accordance with the Regulations. Following the demolition, the gravel/soil pit area where the building had been, was left exposed for a two-month period.

Although this is not a forestry case, the defendant was charged under s 49. The court adopted a starting point of **$180,000**, placing culpability in the **high end** of the **medium band**.

East by West Company v Maritime New Zealand[10]

East by West Company Limited (East by West) operated a ferry service in Wellington harbour and ran two passenger ferries. On the date of the incident one of the ferries on a normal run grounded on a rock. The impact caused the ferry to jump and alter course slightly. Passengers were jolted in their seats. One passenger fell from her seat hitting her back and neck although she did not require first aid.

The ferry was carrying an outdated nautical chart of the area that did not show weeds near to where the vessel grounded. Weed is indicative of rocks close to the surface. The skipper was operating the ferry in excess of the legal speed limit. East by West did not have adequate processes in place to prevent its vessels from travelling at excessive speeds (including monitoring the speed and course of ships using the data readily available to them, implementing a variable range marker on its ships radar highlighting when the vessel was within 200 metres of land); it failed to ensure that skippers were aware of the Maritime Rules concerning safe navigation; and it did not implement procedures to ensure that its skippers were complying with the Maritime Rule relating to maximum speed limits within 200 metres of land.

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[9] *WorkSafe New Zealand v Bays Boating Limited* [2020] NZDC 4815.
[10] *East by West*, above n3.

East by West was charged under ss 48 and 49.

In respect of the s 49 offending, during its investigation Maritime New Zealand identified multiple instances of the ferries travelling at excessive speeds close to land.

In respect of the s 49 charge, the court adopted a starting point of **$200,000** placing the culpability on the **cusp** of the **medium and high culpability bands**.

East by West appealed the decision on the ground that the sentence was manifestly excessive. The High Court did not agree. The Court noted that the ferries multiple instances of travel at excessive speeds involved a serious and high risk of harm to other harbour users using the same areas as the ferries as well as a risk of grounding. These risks were run even after the grounding incident. The staring point on the cusp of the medium and high bands was upheld.

[24] Comparing those cases to the present case, the prosecution submits that:

a) The defendant's culpability sits below that of the defendants in *Bays Boating* and *East by West*. The failures in those cases were more wide ranging and the risks even more obvious than in the case of TAML. In *Bays Boating* the defendant had actual knowledge of asbestos and led contractors to believe the asbestos had been removed prior to the demolition occurring. As the workers believed the asbestos had been removed no controls were put in place to manage the risk of exposure to asbestos. In *East by West* the defendant's policy was to trust its skippers to comply with the Maritime Rules (Rules) therefore did not have in place procedures to ensure that the skippers complied with the Rules. This is evident as the skippers were not aware of the Rules concerning safe navigation.

b) The present case is more serious than *Log 4 U*. The failure there was a single instance of failure to meet the industry standard through proper testing of its workers. Whereas the present offending involves multiple examples of the defendant's inspections overlooking or short cutting different types of health and safety process that should have been zeroed in on.

c) The defendant's culpability sits within the middle of the medium culpability band, towards the lower half of that band, but not at the bottom. An appropriate starting point would be in the vicinity of **$110,000**.

[25] Insofar as mitigation is concerned, the prosecution submits a 20 per cent discount is available for TAML's guilty plea, even allowing for the amendment of the charge. In my view that is insufficient. It seems to me that as soon as the appropriate charge was laid, a guilty plea was offered and on that basis TAML should have maximum credit for its plea.

[26] The prosecution accepts there should be a discount available for previous good character and lack of previous conviction and there is no issue arising here about co-operation or remedial steps.

[27] In addition the prosecution seeks costs in the sum of $6,821.93 which is half of its recorded legal costs. The prosecution notes there are no issues about the company's ability to pay, so this does not need to be factored into the sentence.

Defence submissions

[28] The defence submit that the offending falls within the low culpability range. It is submitted that the prosecution's submissions overstate the gravity of the offending. Further, counsel submits:

> 18.1 While TAML did not check whether SBOs were being done, it is accepted by WorkSafe they were being done. It follows TAML's trust and confidence in Skyline was not misplaced. Insofar as TAML's failure to check can be characterised as a breach of duty, it is clear there was no adverse consequence arising from that omission.
>
> 18.2 Self-auditing is not defined. But TAML was doing SBOs using accredited trainers, so again there was no mischief on their part to identify. They just did not record it was being done, while knowing the crew was fun by a COMPETENZ trainer. Again it is clear there was no adverse consequence arising from that omission.
>
> 18.3 TAML accepts that while it visited the Skyline site on 30 June 2019, 16, 24 and 30 July 2019, it did not check the "paperwork" during that period. The Court will see from the TAML Site Inspection records attached to these submissions that TAML did record other H&S (and other) compliance on those dates.

[29] Counsel accepts that just because Skyline's crew was managed by an appropriate trainer and assessor, it does not absolve TAML of its responsibilities under the Health and Safety at Work Act as a principle, notwithstanding the lack of any industry standard or guideline, which identifies the frequency by which the paperwork must be checked, it is accepted that this was something that could have been done. Further, TAML accepts that when it visited the site in June and July, it did not check for the absence of toolbox records, although in fact, appropriate meetings do seem to have been held.

[30] Counsel submits the record showed there were regular inspections and it is plain that TAML was checking with Skyline on site on a regular basis. Indeed it is submitted that the facts before the Court show a high level of compliance in the usual course of events by Skyline, but at the same time it accepts that TAML fell short in some respects. There is no mention of any similar prosecution of a forest manager for a breach of this kind, nor is there any suggestion of WorkSafe having served improvement notices on anyone for breaches of this nature. The nub of the defence submissions is explained in para [26]:

> 26 It is submitted the breach of duty in issue in this case is of low culpability, being "a minor slip up from a business otherwise carrying out its duties in the correct manner" where no actual harm occurred, as the High Court observed in *Stumpmaster*.

[31] The defence refer to three cases which are submitted to assist with setting the starting point.

[32] In *WorkSafe New Zealand v Alderson Poultry Transport Limited* a starting point of $50,000 was indicated for Tegel, the second defendant, on a s 49 charge.[11] The offence there was failing, in breach of regulations, to properly monitor carbon monoxide levels to determine if there was a risk to a worker and failing to communicate the results of occupation hygiene reports so that workers were aware of the risks which Tegel had specific knowledge of. In that case an employee was killed, but the s 49 charge that Tegel faced does not seem to have related to that.

[33] In *WorkSafe New Zealand v Trade Depot Limited* the starting point adopted for a charge under s 49 was equivalent to a starting point of $50,000 for a s 48 charge.[12] There, an employee of the defendant sustained head injuries which required surgery and hospitalisation. The defendant had not appreciated the risks associated with the work and so did not implement any steps to eliminate or minimise the risk, nor was there any supervision or safety gear provided which could have minimised risk and harm.

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[11] *WorkSafe New Zealand v Alderson Poultry*, above n 4.
[12] *WorkSafe New Zealand v Trade Depot Limited* [2018] NZDC 372.

[34] In *WorkSafe New Zealand v Bulldog Haulage Limited* the starting point was 10 per cent of the maximum penalty for the offending – equivalent to $50,000 here.[13] There, the defendant had failed to consult with other PCBUs about a safe system of work and failed to raise risks that it was aware of. The incident leading to the charges involved an employee being hit by a forklift and sustaining fractures to his leg, ankle and foot.

[35] Counsel further submits:

> 39 In this case the breach neither caused nor contributed to injury unlike in *Trade Depot* or *Bulldog*. It is submitted that TAML's offending is of lesser gravity than *Tegal's*. Plainly TAML had an effective system in place, but it was not implemented as thoroughly as it could have been over a relatively short period, and in the context of a contractor with a history of compliance which had been properly audited by TAML by a competent auditor in March 2019.
>
> 40 Unfortunately for TAML its worker who undertook the inspections of Skyline left their employment and the forestry industry in light of these events. That was not what TAML wanted, but inevitably the scrutiny resulting from the investigation took its toll on the worker. TAML has learned from this process and ensures checking of a contractor's paperwork is done (where possible) on every occasion that a site is visited.[14]
>
> 41 Counsel has been unable to find a truly comparable case to the facts of this case. It is submitted that given the breach in this case neither contributed to nor was causative of the incident for which Skyline is charged (and which they are defending), it is of the kind that could have been dealt with by way of Improvement Notice.
>
> 42 It is submitted that a ceiling of $50,000 as a starting point is clear from both the *Trade Depot, Bulldog* and *Tegal* cases.
>
> 43 It is submitted taking into account those cases and all the facts of this case, the starting point in this case should be up to $40,000 or such lesser sum as the Court considers appropriate.
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> (footnote from original)

Analysis

[36] I cannot accept the prosecution's submission that this offending sits in the medium culpability band. Even allowing for the difference in charges, it seems to me

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[13] *WorkSafe New Zealand v Bulldog Haulage Limited* [2019] NZDC 12202.

[14] That said, it is not accepted that isolated non-compliance with that practice is an offence, absent any industry guidance as to frequency of these processes.

that the cases the prosecution refers to are all much worse than the case before me. Those cases involved actual harm or very clear exposure to risks in relation to the workers. There is a significant element of technicality about the breaches in this case.

[37] I agree with the defence. This was a small level of failure of oversight in respect of a company that had proper systems in place and which in its turn failed in this respect on relatively few occasions. Indeed although the record keeping may have been less than satisfactory in a few instances, the actual compliance with safety seems to be high.

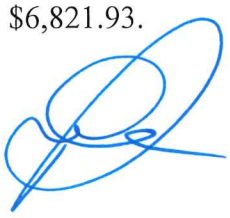
[38] Obviously it is important to maintain the integrity of the safety regimes. This record keeping and checking process is in place to ensure that a highly dangerous industry is properly regulated and run. If these checks and balances are not in place, those who are not complying with proper procedures will not be discovered. However, that does not, in my view, elevate the relatively technical failures in this case to the level of serious culpability. It can never be forgotten that although Mr Paikea's tragic death was the background to this investigation and charge, it is not linked in any way to the breaches to which TAML has pleaded guilty.

[39] Adopting Judge Kellar and Clark J's bands, this offending seems to me to sit well in the mid-point of the low culpability range. Counsel for TAML's assessment of $40,000 as an appropriate level of penalty seems to me to be apt. There are no circumstances warranting an uplift to this starting point. TAML is entitled to credit of 25 per cent for its plea of guilty, which brings the fine down to one of $30,000. TAML is entitled to a further discount for its lack of previous convictions and otherwise good safety record and I think perhaps 10 per cent is appropriate in that respect. That brings the discounted figure down to $26,000.

[40] In my view that is the appropriate fine for the company.

[41] Whilst I note the defence submission that the regulators costs could have been less than sought had the defence proposal to amend the charge been accepted at an earlier stage, it does not seem to me to be an unreasonable amount to order. In addition

to the sum of $26,000, TAML is ordered to pay costs of the prosecution in the sum of $6,821.93.



R E Neave
District Court Judge