

Welcome to the first issue of *The Safe Side* for 2023! We start 2023 by reporting on a school trip to the Poor Knights Islands that almost ended in tragedy and remind schools about the importance of assessing and controlling on-water risks when students undertake activities outside the classroom. We also look at the sentencings of three companies after recent health and safety prosecutions. Two Australian companies were given substantial fines following the deaths of workers while unloading stone slabs from containers, while a New Zealand forestry servicing company was ordered to pay over \$500,000 after a remote field worker died when working on a logging harvesting machine. We also briefly cover a case where a worker was charged after he came to work intoxicated and overturned an excavator on a ship. Finally, we have a short article on the comprehensive new guidance published by WorkSafe for working on and near the road.

School trip almost ends in tragedy and leads to prosecution of BOT

A Northland [area school's Board of Trustees](#) has been sentenced in the Whangarei District Court for health and safety failings after a school trip went horribly wrong. Details of the reparations paid to the victims have been suppressed by the Court.

The charge arose after a group of students went on a kayaking and snorkelling trip in the Poor Knights Island Marine Reserve, off the coast of Tutukaka, in December 2020.

The Court heard how two children in a shared kayak capsized in rough swells in a narrow cave. One student got her feet trapped in a crevasse and was submerged each time a wave entered the cave. After another student signalled for help, it took 15 minutes to get her to safety. Her rescuer then got stranded on a ledge with the other young kayaker until a rescue helicopter could arrive two hours later.

A WorkSafe investigation found the school failed to consider the on-water risks and controls for the trip, and had inadequate supervision in place. More generally, the school did not have an outdoor education safety management system for these types of trips.

The operator of the trip has also been charged but is yet to enter a plea.

The prosecution of the school follows health and safety charges being filed against two other schools after students drowned on field trips to Lake Rotoma and Waihi Beach in 2020 and 2021 respectively. Both these schools proposed and had enforceable undertakings (EUs) accepted by WorkSafe so the charges were withdrawn. You can read more about these incidents and the EUs in [Issue 36](#) of *The Safe Side*.

After the sentencing, WorkSafe emphasised that schools and parents shouldn't view the latest case as forbidding outdoor education, which is an important part of school life and something we all want to see continue. To assist schools to keep students safe, the Ministry of Education provides a [toolkit](#) with sample forms and templates to use while undertaking education outside the classroom (EOTC). The toolkit helps schools to refine their systems for EOTC management and meet their legal and good practice responsibilities.

WorkSafe publishes new guidelines for working on the road or roadside



The recent wild weather has seen widespread damage to the roading network and the list of repairs needed is extensive. WorkSafe has published new and comprehensive [guidance](#) for PCBUs on how to keep

workers healthy and safe while working on the road or roadside.

The Good Practice Guidelines are a substantial 176 pages long and provide general advice on risk management as well as specific advice on dynamic risk and risk through the contracting chain. They also cover a wide range of hazards including work near live traffic and mobile plant, work near services, utilities and the rail corridor, confined spaces, remote work, hazardous substances, biological hazards and extreme weather conditions.

And in what may be a first for WorkSafe guidance, the Guidelines acknowledge Aotearoa New Zealand's unique cultural context by providing an introduction to te ao Māori and risk management, and advice on engagement with local iwi.

Forestry servicing company ordered to pay more than \$500k after field technician dies

A [forestry machinery servicing company](#) was ordered to pay a fine of \$265,000 and reparations of \$271,000 following the death of a worker who was repairing a harvesting head logging machine. The 48-year-old victim was fatally crushed at Quail Ridge Forest in Putere, near Wairoa, in November 2020 after the mechanical attachment he was working on was activated.

WorkSafe's investigation identified that the company's field technicians had been inadequately trained about the risks and controls involved in this type of repair job, and weren't

properly monitored to correct any unsafe practices. It said that while the field technicians were provided with some safety instruction, the manuals for the harvester head were large and the 'buddy' training system the business had was insufficient. In addition, there was no other supervision and monitoring of the field technicians' safety knowledge and practices.

WorkSafe has [guidance](#) available on the risk management processes that must be followed to help keep workers safe when they are working remotely.

Two Australian companies sentenced for separate stone slab crushing fatalities

The sentencing of two companies on the same day in December 2022 highlight the extreme risks involved in unloading stone slabs from shipping containers. The Victorian companies were ordered to pay combined fines of AU \$800,000 following the deaths of two workers who were crushed by toppling stone slabs in separate and unrelated incidents.

The first [sentencing](#) saw a stone importer convicted and fined AU \$475,000 after a worker was fatally crushed at a warehouse in April 2020. The 34-year-old worker sustained fatal injuries after three stone slabs – each weighing up to 250 kilograms – pinned her against the interior wall of a shipping container she was helping to unload. The worker used a screwdriver to separate the slabs before inserting a wedge in the gaps so the slabs could be gripped by a clamp attached to a forklift. As she hit the wedge into the opening, the unrestrained slabs toppled and crushed her.

The investigation found that the company had no formal procedure on how to unload slabs. WorkSafe Victoria said the company should have had systems in place to ensure slabs were stored at the correct angle, workers remained outside the fall zone of the slabs at all times, and temporary restraints were used to limit the movement of slabs during unloading.

WorkSafe's investigation also identified multiple other safety failings with the forklift being used at the time of incident, including that a spring-activated safety feature on the clamp attached to the forklift – designed to assist with gripping the slabs – had been replaced with rubber bands. The storage racks in the warehouse were also unsafe.

The second [sentencing](#) was of a benchtop company and involved tragically similar circumstances. In February 2020, the director of the company and a worker were unloading a shipping container which contained seven packs of 15 slabs, with each slab weighing 220kg. The worker was working inside the container to separate each slab and attach a clamp, which was fitted to a lifting attachment on a forklift. The director was using the forklift to move individual slabs out of the container. The director heard the worker call out for him and found the worker pinned to the container wall by about 30 fallen slabs. Workers and emergency services were unable to shift the slabs and the worker died at the scene.

Again, the Court found it was reasonably practicable for the company to have used temporary restraints such as support frames, chains and straps to prevent any unintended movement of slabs during the unloading process. It also found that it was reasonably practicable to reduce the risk of slabs falling by moving complete packs using either a mobile crane or forklift with a container mast, fitted with stone handling attachments, instead of moving them individually.

Following the sentencing, WorkSafe Victoria outlined other steps that PCBU's unloading stone slabs could take to manage the risks of the slabs toppling and crushing workers. These included consulting with the supplier on the best shipping configuration for safe unloading, having a safe system of work for unloading, ensuring the container is on level ground, ensuring that no one is in the fall shadow of any object at any time and using equipment to minimise workers' interaction with the contents.

Maritime NZ prosecutes port worker not PCBU after digger tip-over

A port worker who arrived at work intoxicated, and then overturned a digger, has been [prosecuted](#) by Maritime NZ for breaching his responsibilities as a worker. He was fined \$20,000 at sentencing in the Invercargill District Court.

The incident unfolded after the digger operator arrived late to work, missing the toolbox meeting and failing to report in to his foreman. He went straight to a bulk carrier and replaced another operator stowing away logs.

When contacted by the foreman, who asked him to report to see him, he declined, saying he would report in five minutes. The digger then tipped over as the worker was lifting and moving logs while the digger was in a precarious position.

After the incident, the foreman noticed the worker was unsteady on his feet. A breath alcohol test was undertaken, recording readings of 880 and 830 micrograms of alcohol per litre of breath. The legal limit is 250 micrograms.

Maritime NZ said that the worker's employer had steps in place to mitigate against the risk of incidents like these occurring. They included toolbox meetings and getting staff to check in with the foreman should they be late and miss the toolbox meeting. While we can't be certain from the information available, it is highly likely that the strength of these arrangements helped to persuade Maritime NZ to prosecute the worker rather than his employer.