



Department
of Industry
Resources Regulator

NSW Resources Regulator

Monthly business activity
report: October 2016



The NSW Resources Regulator, established on 1 July 2016, is responsible for the compliance and enforcement functions across mining and resources sectors, and for driving continuous improvement across all regulatory functions of the Department of Industry.

The NSW Resources Regulator works with industry, community, local councils and other state government agencies to provide a consistent and responsive regulatory approach to ensure compliance with the *Mining Act 1992* (Mining Act), *Work Health and Safety Act 2011* (WHS Act) and the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS(M&PS) Act) and other relevant legislation and associated regulations.

This report provides a summary of the activities of the NSW Resources Regulator for the month of October 2016.



The Department of Industry, Skills and Regional Development has taken all care to ensure the accuracy, completeness and reliability of the information provided in this report. Nothing in this report impacts any duties held by any person under legislation administered or enforced by the department. Compliance with the legislation is a legal requirement. Some persons may have a right of internal or external review of decisions made under the legislation administered or enforced by the department.

October saw the NSW Resources Regulator take decisive and necessary action to address a number of significant safety issues. This resulted in the issuing of various prohibition notices that halted operations at five mines.

At Appin Colliery, action was taken to require the immediate cessation of longwall operations and the removal of all workers following an incident involving the failure of the main ventilation fan. During the incident methane gas levels reached a high of 4.73% and workers were not removed from the underground mine and therefore not completely removed from the risk.

Prohibition notices were served on Tahmoor, Ashton, Austar and Narrabri mines requiring they cut power to their armoured face conveyors due to a safety issue arising from a product that did not conform to required standards. Inspectors provided assistance to mines so that by the following day all mines had been able to identify additional risk controls. The prohibition notices were amended so the mines could safely resume operations with the addition of these controls.

In other enforcement actions, prosecution proceedings were commenced against Rio Tinto Coal (NSW) Pty Ltd in relation to the serious injury of a worker at the Mount Thorley Warkworth Mine.

October also saw a number of activities aimed at improving visibility and transparency of the activities of the regulator, including:

- the development of new web pages for the NSW Resources Regulator
- external publication of compliance activity reports for July and August
- expansion of the 1300 814 609 number for reporting safety incidents to be the single phone contact for the NSW Resources Regulator
- publication on the website of the details of all completed prosecution matters on the website.

In education and engagement activities, a six-week campaign of industry information sessions for metalliferous and extractives mines across the state was commenced, with sessions held at Griffith, Deniliquin and Wagga Wagga. A production manager permit workshop was also held in Albury and an opal mine safety awareness course and the operator workshop were conducted at Lightning Ridge.

October also saw a large variance in the number of non-compliance events recorded as the Division of Resources and Energy implemented new systems to notify the regulator of the late payment of rents and levies. These events accounted for nearly 70% of all events recorded in October and also accounted for non-compliances over a number of months which were back-captured as part of the new reporting system.

Activities

Below is a snapshot of the NSW Resources Regulator's activities for October 2016.



An important role for the NSW Resources Regulator is ensuring all operators and title holders are aware of their obligations and how to meet them. Publishing information and guidelines that assist in identifying and managing obligations is a mechanism for achieving this. Training workshops and information sessions also provide a valuable way to engage with industry and assist them to maximise their compliance.

Workshops and information sessions

Engagement with duty holders and the mining industry received increased focus during October. The first week of a six-week campaign of industry information sessions for metalliferous and extractives mines across the state commenced during the month, with sessions held at Griffith, Deniliquin and Wagga Wagga.

The information sessions are focusing on the end of the transitional arrangements under the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014 and the requirements for mine operators to implement a safety management system, principal hazard management plans and principal control plans.

The sessions included an interactive workshop where Mine Safety inspectors worked through an exercise with attendees in which they developed elements of a

principal hazard management plan.

Mine Safety continued to support the statutory function scheme, conducting a production manager permit workshop in Albury involving 14 attendees. The workshops are a critical part of the process for granting production manager permits for small, low-risk quarries. A round of the opal mine safety awareness course and the mine operator workshop were conducted by Mine Safety staff at Lightning Ridge.

Mine Safety played a key role in leading a workshop on human and organisational factors case studies at a coal mine safety and health representative training day at Lithgow.

We commenced a

6 week 

campaign of industry information sessions for metalliferous and extractives mines across the state

Workshops and information sessions

Date	What	Where	Detail
5 October	Workshop	Grafton	Production Manager Permit workshop
7 October	Workshop	Lithgow	Workshop on human factors case studies at MSHR training
11 October	Planning meeting	Goonumbla NSW (Northparkes Mine)	Meeting held at Northparkes Mine to develop audio visual material for inclusion in Underground Mine Disaster Simulation. Exercise being developed in Avalanche TTX
11 October	Industry training	Hunter Valley	Presented at the Safe & Efficient Blasting course conducted by Orica
12 October	Industry training	Maitland	Conducted written exams for open cut coal shotfiring
17 October	Planning meeting	Broken Hill NSW (Perilya)	Meeting at Perilya Broken Hill to develop draft Broken Hill Mine Consequence Management Guide
19 October	Presentation	Monak Sand Pits, Buronga.	Production Manager Permit workshop
19 October	Planning meeting	Warkworth NSW (Wambo Coal)	Participated in a risk assessment for the development of the emergency plan at Wambo Coal

Workshops and information sessions (continued)

Date	What	Where	Detail
24-25 October	Workshop	Lightning Ridge	Safety Awareness course for opal mines
26 October	Workshop	Lightning Ridge	Mine operators workshop for opal mines
26 October	Workshop	Port Macquarie	Production Manager Permit workshop
25-27 October	Workshops	Griffith, Deniliquin and Wagga Wagga	Legislation transitional information workshops
27 October	Workshop	Singleton	Statutory Functions Description workshop
31 October	Industry training	Maitland	Conducted oral exams for open-cut coal shotfiring



Targeted assessments and audits

The ongoing delivery of the targeted assessment programs for critical risk controls was a key achievement for Mine Safety during October 2016. Five on-site assessments were completed for a range of targeted assessments, with initial planning and interaction with mine personnel at another site also concluded. The TAPs focused on gas and ventilation management, respirable dust, coal dust explosion suppression and electrical safety.

The areas of focus in underground metalliferous mines have been exposure to diesel exhaust emissions and ground and strata failure. The TAP has also been targeted at electrical safety in surface dimension stone operations.

A targeted intervention program was also undertaken at a coal mine in relation to duties of officers under the WHS Act focusing on the assessment of appropriateness of resourcing levels to maintain the operation in a safe condition while on care and maintenance.

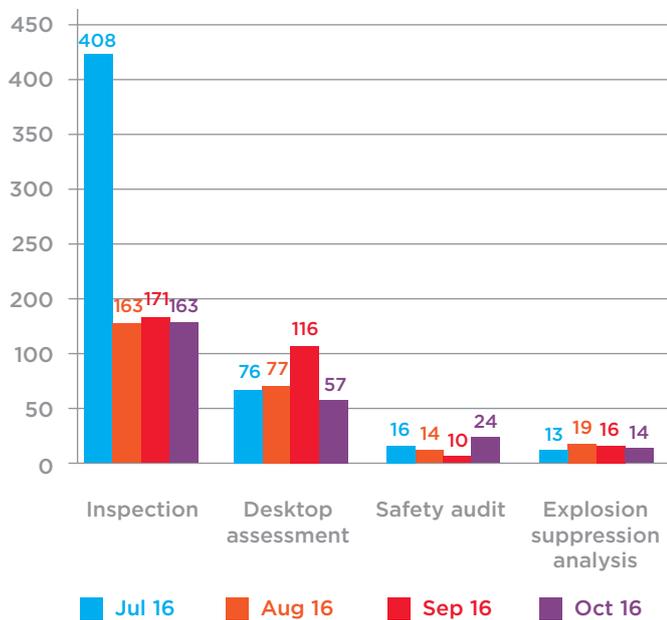
Mine Safety TAPs and audits for October

Mine	Program
Dendrobium	Targeted assessment: Gas and ventilation management
Ashton	Targeted assessment: Gas and ventilation management
Narrabri	Targeted assessment: Respirable dust
Tahmoor	Targeted assessment: Explosion suppression
Wilton Quarry	Targeted intervention: Electrical safety
East Kurrajong Quarry	Targeted intervention: Electrical safety
Idylway Venture Pty Ltd - Gundagai	Compliance Audit - Exploration
Rasp Mine Broken Hill	Dam Safety Management Systems Audit
Hillgrove Mine, Armidale	Dam Safety Management Systems Audit
Argent (Kempfield) Pty Ltd - Blayney	Compliance Audit - Exploration
Werris Creek Coal Mine	Dam Safety Management Systems Audit

A detailed report on the outcomes of targeted assessments and audits are published on the NSW Resources Regulator's website on conclusion of the program.

In addition to the detailed TAPs and audits outlined above, Mine Safety also undertakes a variety of inspections, audits and desktop assessments. Comparative numbers for July, August, September and October are shown in the graph below.

Mine safety compliance activity



*July saw a spike in inspection activity due to the Lightning Ridge compliance operation.

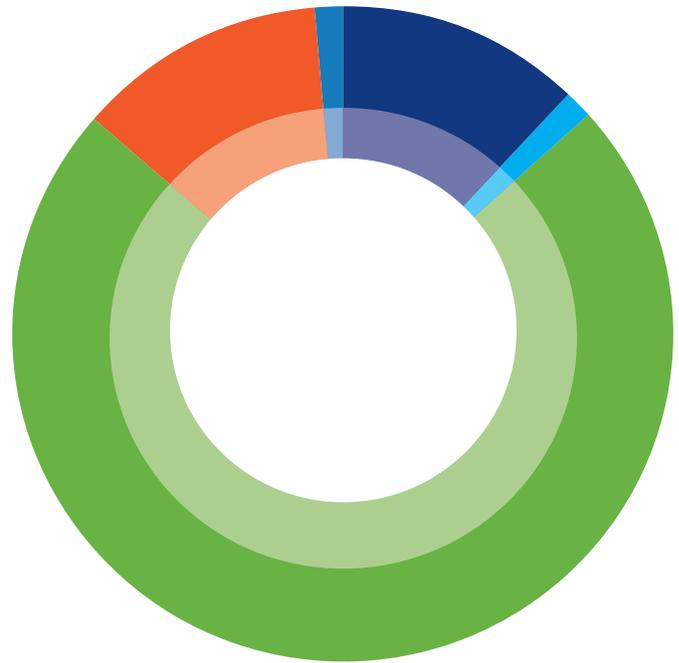


The NSW Resources Regulator responds to incidents of non compliance identified through proactive compliance programs such as inspections and audits, complaints and notifications received, and as a result of investigations.

As a result of the different legislation and their reporting requirements, the issues of non-compliance can be identified as being those associated with the obligations under the Mining Act, or those relating to mine safety.

Mining Act non-compliances

Incidents of non compliance with the Mining Act may vary from a failure to submit a report on time or in accordance with a condition on title, to undertaking mining without authorisation.

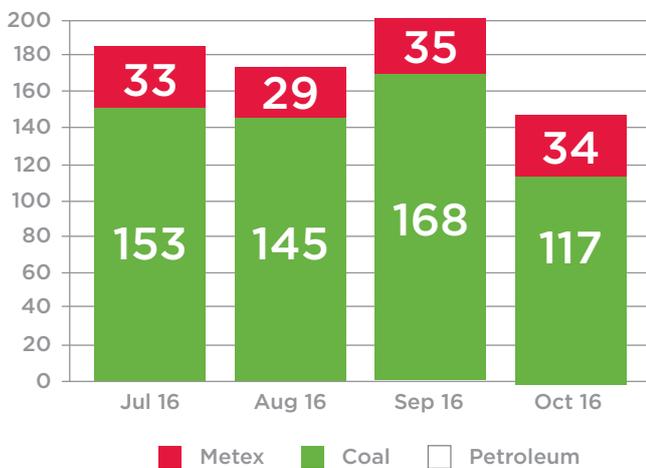


Number of incidents	Alleged non-compliance type
6	Failure to comply with conditions
2	Failure to comply with a direction
114	Failure to make payment
19	Failure to report
2	Illegal mining or prospecting

Mine Safety incident notifications

The WHS (M&PS) Act requires duty holders to inform the regulator of the occurrence of certain incidents. This includes the death of a person, a serious injury or illness or other prescribed incidents.

Notifications received in July, August, September and October are shown in the chart below.



Significant safety incidents

Date: 1 October 2016

Location: Springvale Mine Underground

Incident: Electrician was double chocking on longwall face when localised slabbing occurred. Top of slab made contact with the plan line and fell into the walkway striking the electrician in the lower right leg area. Electrician was treated at the scene and later by ambulance officers on the surface. Electrician was transported to Lithgow Hospital for x-rays.

Date: 8 October 2016

Location: Narrabri Colliery

Incident: Tradesman slipped on the shovel of the continuous miner and fell onto the cutter head of the continuous miner, sustaining a penetrating wound to the chest under his right arm.

High risk notifications

Under clause 33 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014, operators of a mine or petroleum site are required to give notice of the intent to carry out an activity identified under schedule 3 of that regulation.

High risk activities cover a variety of things such as electrical work on energised electrical equipment, the development of a new entry for an underground mine, driving or widening an underground roadway in a coal mine beyond 5.5 m, or suspending a petroleum well. The regulator does not have an approval function but must be given notification of the intent to undertake the activity, with a mandated period in which to respond to the notification.

High risk notifications received in October are shown in the table on page 10.



Keep up to date on safety incidents by subscribing to NSW Mine Safety News via the [NSW Resources Regulator's website](#)

High risk notifications received in October

Mine	WHS (M&PS) Regs provision	Activity
Ashton Coal Mine (Underground)	Schedule 3, clause 20(3)(a)	Use of explosives designed for use in coal mines
Austar Coal Mine (Underground)	Schedule 3, clause 11	Conduct of hot work in a hazardous zone
Chain Valley Colliery	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres. (2 notifications)
Clarence Colliery	Schedule 3, clause 7(2)(b)	Working in inrush control zone
Dendrobium Colliery	Schedule 3, clause 12	Driving underground roadway that is wider than 5.5 metres
Springvale Mine (Underground)	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres
Tritton Copper Mine	Schedule 3, clause 4	Development of new mine entry
Ulan West Operations	Schedule 3, clause 13	Widening underground roadway to more than 5.5 metres

Exemptions granted

Mine operators are able to apply for exemptions from provisions of the Regulations, under clause 684 of the Work Health and Safety Regulation 2011.

Exemptions granted in October

Mine or PCBU	WHS (M&PS) Regs provision	Activity
Tahmoor Colliery/Tahmoor Coal Pty Ltd	Men and materials drift winding system exempt from Part 5.3	Registration of items of plant and plant design for a period of three months.

Investigations into major accidents and incidents

On 26 October, a prohibition notice was issued to Appin Colliery, prohibiting any further production and requiring the immediate withdrawal of workers until the mine completed a full review of its controls managing the risk of methane gas and ventilation. The notice was issued as a result of an incident the previous day where the main ventilation fan lost power and stopped working. Methane readings in the return circuits of the colliery's two longwalls had reached a high of 4.73%. Workers were withdrawn to crib rooms, but were not removed from the underground mine.

The prohibition was subsequently revised to allow a limited number of staff to go underground to perform essential duties and undertake limited coal extraction to mitigate against the development of further safety issues arising from localised strata deterioration. These arrangements were subject to strict conditions relating to the monitoring of methane gas levels and the immediate withdrawal of workers in the event of a fan failure.

General operations remained prohibited until 4 November 2016 when the mine completed its review of its critical controls and was able to satisfy the regulator methane gas risks were being appropriately managed.

Another matter concerned a notification from Caterpillar of a safety issue arising from a product that did not conform to standards. The CAT CST servo valve was found to be not intrinsically safe, which affected the armoured face conveyers (AFCs) at Tahmoor, Ashton, Austar and Narrabri. Verbal WHS prohibition notices were issued on Friday 28 October 2016 to each mine, requiring they immediately cut power to the AFCs.

The safety issue arose because the coils in the CST servo valve had insufficient insulation thickness with the effect that these parts could become an ignition source in the event the servo valve is mechanically damaged. Notably the coil component failed the spark ignition test, confirming it could create a spark with enough energy to ignite gas.

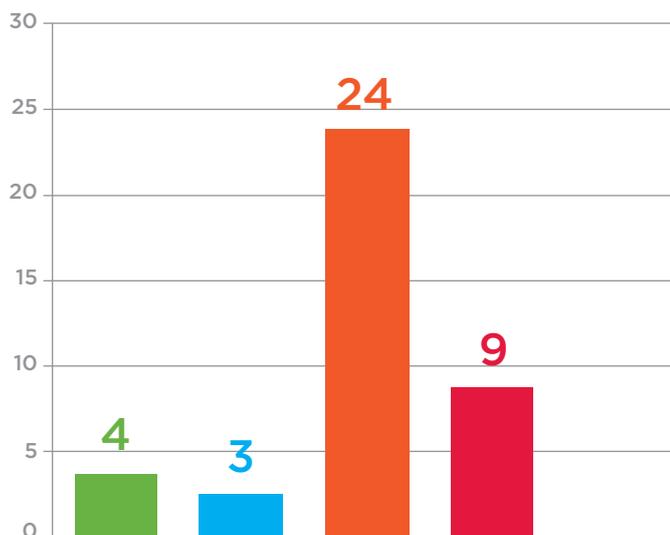
Inspectors made themselves available Friday evening and throughout Saturday to provide assistance to the mines, and by Saturday evening all mines had been able to identify additional risk controls.

The prohibition notices were amended so the mines could safely resume operations with the addition of those controls.



When a duty holder fails to achieve compliance with the requirements of the legislation, the NSW Resources Regulator seeks to force them to comply with the obligations. The approach taken to do this will depend on the significance and impacts of the breach, the tools available under the relevant legislation, and any applicable compliance and enforcement or prosecution policy.

Mining Act enforcement actions



Number	Action
4	Unsustained - no action taken
3	Advisory letter
24	Warning/official caution
9	Penalty infringement notice



Prohibition notices

Under section 195 of the WHS Act Mine Safety inspectors can issue prohibition notices if they believe an activity is occurring, or may occur, in a workplace that does or could pose a serious risk to the health or safety of a person.

A prohibition notice outlines the matters that give rise to the risk, and may include directions on the measures to be taken to remedy the risk.

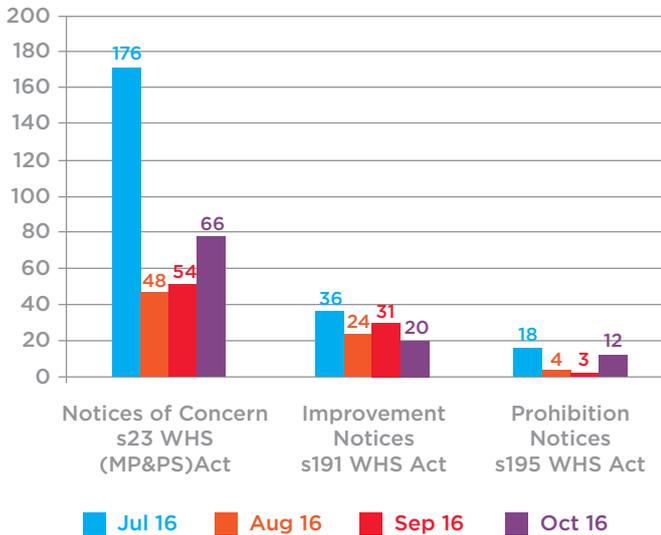
Prohibition notices issued under this provision in October 2016

PCBU	Site	Trigger	Details	Prohibited activity
Tomingly Gold Mine	Tomingly Gold Mine	Notification of a bogged haul truck	A haul truck became bogged.	Access to the WRE 1 waste dump south end 280.5 RL prohibited until a detailed investigation is undertaken.
Bloomfield Collieries	Bloomfield Mine	Notification that a fire occurred on a conveyor belt	A fire occurred on the conveyor belt that loads onto the train loader/hopper.	Operation of the train load out conveyor prohibited until investigation completed
Burgess Earthmoving Pty Ltd (2)	Kapooka Quarry	Planned inspection to review high walls and traffic management issues	An inspection of the site revealed an unsafe high wall (material hung up) with non fit-for-purpose equipment working beneath the hung up blasted material.	No extraction of the blasted hung up material is to take place within at least 30m-50m of the blasted face on the pit floor on the Northern side of the pit—this area will be deemed an exclusion zone
Endeavour Coal Pty Ltd	Appin Colliery	Notification of failure of Appin East drift winder	An unplanned movement of the Appin East drift winder occurred.	Prohibited operation of the Appin East drift
Endeavour Coal Pty Ltd	Appin Colliery	Notification of exceedances of methane levels	Despite methane exceedances at the mine, issues were identified regarding TARPs and withdrawal of workers from underground.	Prohibited underground mining operations; and entry into the underground parts of the mine by any workers

PCBU	Site	Trigger	Details	Prohibited activity
Blayden Enterprises Pty Ltd	Koree Limestone Mine	Inspection of site—site has only recently recommenced production.	Following an inspection at the site it was determined that guarding on the crushing and screening plant was deficient.	Prohibited the use of the crushing and screening plant until such time as all guards installed and all nip points protected
Blayden Enterprises Pty Ltd	Koree Limestone Mine	Inspection of site—site has only recently recommenced production.	Following an inspection at the site that a road truck planned to be used to carry quarry material did not have adequate braking capabilities.	The truck is not to be used until such time as the brakes are rectified and the truck is fundamentally safe for use, including confirmation that safety critical items (brakes, steering & warning devices) are operable
Helensburgh Coal Pty Ltd	Metropolitan Colliery	HRA received for mining operations within an outburst control zone	Following receipt of a High Risk Activity (HRA) notification an inspection revealed gas thresholds exceeding those specified in the HRA.	Prohibited mining within outburst control zone pending receipt of revised Outburst Prevention and Control Plan reflecting the gas content and composition limits for normal (unrestricted) mining
Yancoal Mining Services Pty Ltd	Austar Coal Mine	Notification that Caterpillar Gearbox CST servo unit is not consistent with issued Certificate of Conformity	During certification update of the CST Servo Valve, the coil and internal wiring had been deemed as not having adequate mechanical protection and insulation thickness. If damage occurs to the Servo Valve coil or internal wiring to the coil whilst the coil is energised, this could result in an ignition source of sufficient energy to ignite an explosive atmosphere.	Prohibited energising of CST servo coils as fitted to the AFC drives of the longwall face while in a hazardous zone unless all controls identified in risk assessment implemented

PCBU	Site	Trigger	Details	Prohibited activity
Narrabri Coal Operations Pty Ltd	Narrabri Colliery	Notification Caterpillar Gearbox CST servo unit not consistent with issued Certificate of Conformity	During certification update of the CST servo valve, the coil and internal wiring had been deemed as not having adequate mechanical protection and insulation thickness. If damage occurs to the servo valve coil or internal wiring to the coil while the coil is energised, this could result in an ignition source of sufficient energy to ignite an explosive atmosphere.	Prohibited energising of CST servo coils as fitted to the AFC drives of the longwall face while in a hazardous zone unless all controls identified in risk assessment implemented
Yancoal Mining Services Pty Ltd	Ashton Coal Mine (Underground)	Notification Caterpillar Gearbox CST servo unit not consistent with issued Certificate of Conformity	During certification update of the CST servo valve, the coil and internal wiring had been deemed as not having adequate mechanical protection and insulation thickness. If damage occurs to the servo valve coil or internal wiring to the coil while the coil is energised, this could result in an ignition source of sufficient energy to ignite an explosive atmosphere.	Prohibited energising of CST servo coils as fitted to the AFC drives of the longwall face while in a hazardous zone unless all controls identified in risk assessment implemented
Tahmoor Coal Pty Ltd	Tahmoor Colliery	Notification Caterpillar Gearbox CST servo unit not consistent with issued Certificate of Conformity	During certification update of the CST servo valve, the coil and internal wiring had been deemed as not having adequate mechanical protection and insulation thickness. If damage occurs to the servo valve coil or internal wiring to the coil while the coil is energised, this could result in an ignition source of sufficient energy to ignite an explosive atmosphere.	Prohibited energising of CST servo coils as fitted to the AFC drives of the longwall face while in a hazardous zone unless all controls identified in risk assessment implemented

Key notices issued under work health and safety legislation



Increased numbers for July are attributable to the Lightning Ridge compliance operation.



Prosecutions

Prosecution can act both as an actual response to an incident of non-compliance, and also as a deterrent to the wider industry. The decision to prosecute is not taken lightly, but is determined in accordance with the [Prosecution Guidelines](#).

Prosecutions commenced

Proceedings were commenced against Rio Tinto Coal (NSW) Pty Ltd for alleged contraventions of the WHS Act at resulted in serious injury of a worker at the Mount Thorley Warkworth Mine. The worker sustained serious spinal injuries when he fell from the grader's hydraulic powered access ladder when it unexpectedly moved and began to rise.

It is alleged that Rio Tinto as the mine operator, failed to take all steps reasonably practical to reduce the risk of the worker falling from the ladder, including a failure to take appropriate action to prevent the unintended movement of the ladder system.

Category 2 proceedings have commenced under section 32 of the Act for failure to comply with a health and safety duty. Category 2 Work Health and Safety offences attract a maximum penalty of \$1,500,000.

Prosecutions finalised

Nil.

Information on previously finalised prosecutions is available on the [Regulator's website](#).

Penalty notices

Penalty notices, issued under section 378K of the Mining Act, make provision for a person to pay a penalty in relation to a particular offence. The offences and related penalties are prescribed by the regulations, and may include issues such as mining or prospecting without authorisation and a failure to comply with a direction.

Penalty Infringement Notices issued in October 2016

Date	Titleholder	Penalty Notice amount	Details
14 October	Titleholder ML 1688	Penalty Infringement Notice - \$300	Breach of condition of authorisation (mining contrary to MOP)
17 October	Wollongong Coal Limited	Penalty Infringement Notice x 3 - \$1,000 each	Failure to make payment - rents and levies
20 October	Wollongong Coal Limited	Penalty Infringement Notice x 2 - \$1,000 each	Failure to make payment - rents and levies
20 October	Wongawilli Coal Pty Ltd	Penalty Infringement Notice x 2 - \$1,000 each	Failure to make payment - rents and levies
24 October	Phoenix Vision Pty Ltd	Penalty Infringement Notice - \$5,000	Fail to prepare or lodge report as prescribed - Corporation

Media

The NSW Resources Regulator issues media releases on significant activities. These are published on the [NSW Resources Regulator's website](#).

Date	Details
12 October	Resources Regulator announces prosecution proceedings against Rio Tinto Coal (NSW)
31 October	Resources Regulator Action Report July and August 2016

Contact the NSW Resources Regulator



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