

# News

## Worker convicted over mine death

MALCOLM WEATHERUP

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**AN underground worker at BHP Billiton's Cannington mine has been found guilty of breaching health and safety rules which resulted in the death of a fellow worker two years ago.**

Niu Rabuka was working underground at the mine in January 2008 when Michael Auld, a 51-year-old man from Tin Can Bay, died after being caught between a light vehicle and a tool carrier.

The accident happened 375m underground, and BHP Billiton and mines contractor EROC were criticised at the time for not allowing government investigators to speak to witnesses or inspect the scene of the accident until 24 hours after the tragedy.

The prosecution was brought by the Department of Mines and Energy for breaching safety rules.

During the hearing over the past six months, Magistrate Brian Smith made an on-the-spot inspection of the accident site and heard detailed evidence about mining operations.

Timothy Paul Westendorf, the then training safety manager for EROC, the company contracted to the mine owners, explained the induction processes which all new employees must undertake before operating machinery without supervision.

He said he had taken part in the training of Rabuka, and when the training had been completed under the guidance of more experienced workers, he had signed a Full Competency Permit for him.

Throughout the proceedings, it was noted that Rabuka struggled with English from time to time.

Rabuka was operating a tool carrier at the time of the accident.

Yesterday, Mr Smith found Rabuka guilty of causing Mr Auld's death, concluding that Rabuka had shown lack of judgment and attention and he had been aware of the risks.

The magistrate accepted Rabuka's extreme remorse at the death of a work colleague, a tragedy "you will suffer for years to come".

Submissions from Rabuka's counsel Tui Savu, that the penalty be a fine, were rejected as not appropriate and unjust.

Mr Savu said in that case, he asked that any jail term be wholly suspended.

"The seriousness of this matter limits the options and a custodial sentence is called for," Mr Smith said.

Under the circumstances in this court, the maximum was two years and/or a \$75,000 fine.

Mr Smith said it would be unrealistic to impose a fine, and sentenced Rabuka to eight months jail, the term wholly suspended for 15 months. He was also ordered to pay \$13,437 to cover the costs of both the investigation and the court.

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