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I am grateful to the Queensland Courts for allowing MSIA to make this information available. It is the judge's decision which allows us to understand the requirements of the legislation and its application. This decision is provided for education and training purposes with the intent that no other mine worker or their family should have to be exposed to an unacceptable level of risk.

My hope is that learning the lessons from these past accidents will continue to assist us to improve mining safety and health and we can one day achieve our goal of every mine worker home safe every day. This court decision is provided with that intended purpose.

Mark Parcell
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QUEENSLAND COURTS AND TRIBUNALS
TRANSCRIPT OF PROCEEDINGS

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DISTRICT COURT OF QUEENSLAND

CRIMINAL JURISDICTION

JUDGE CLARKE

Indictment No 41 of 2025

THE KING

v.

MASTERMYNE CRINUM OPERATIONS PTY LTD

Defendant

BRISBANE

11.45 AM, FRIDAY, 1 MAY 2026

DAY 1

SENTENCE

Any rulings in this transcript may be extracted and revised by the presiding Judge.

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: In the case of Mastermyne Crinum Operations Proprietary Limited I am prepared to accept the careful and sensible verdict of the majority of the jury in Emerald on 30 March, with respect. I am satisfied the evidence established proof
5 beyond reasonable doubt of the disputed elements, that (4), the defendant's conduct caused the death of Mr Dawson, and (5) the defendant's conduct was criminally negligent. In my view, Mr Dawson's death was avoidable. It was the defendant's criminal negligence that contributed substantially to his death. I am satisfied that there was a clear breach of the duty in section 39(1)(c) of the Coal Mining Safety and
10 Health Act 1999 to take any other reasonable and necessary course of action to ensure anyone at a coalmine is not exposed to an unacceptable level of risk.

I am prepared to sentence the defendant on the basis alleged that the defendant's conduct was negligent (a) in abandoning the original strata support method, (b)
15 which had been recommended by specialist advice of a geotechnical engineer, (c) which had been risk-assessed and approved at the WRAC meeting held 25 August 2021, (d) which had been utilised to 10 September 2021 without incident, and (e) that there was a failure to implement another strata support method that provided the same or greater degree of strata support. In my view, the risk was obvious and
20 objectively serious despite the measured submissions to the contrary for reasons which I will endeavour to articulate.

I am prepared to find that the original strata support method involved the manufacture and erection of the steel sets, with mesh placed between them, and with
25 shotcrete application over that structure, and with the cavity fill pumped with expandable foam. The original strata support method was not a shotcrete-alone method, that is, not only applying shotcrete to the existing strata, even if that had been done at another site at manhole 19. I accept that the objectively viewed conduct of the defendant was a serious departure from the standard expected to place
30 coalmine work employees such as Mr Dawson, and to that end, Mr Morgan and Mr Weir, in that position of exposure to an acceptable risk.

What happened is that the defendant company Mastermyne gained approval from the mine operator Sojitz to restore access to the underground coalmine to embark on a
35 project for the reopening of the underground coal mining operation for the purpose of winning virgin coal at the Crinum mine near Emerald. The underground coalmine workings had been decommissioned since late 2015. The work required remediating the two parallel drifts, being the transport drift and the conveyor drift, which was used to transport mined coal from the coalface to the surface.
40

Mastermyne engaged contractors to conduct feasibility and geotechnical studies and to report about those matters. It was crucial for the company in complying with their obligations for health and safety in an inherently unsafe environment to ensure
45 stabilisation and integrity of the evacuated tunnels to prevent further roof of rib collapse or falls so that workers' safety was maintained during the remediation and resumed underground mining operation following that.

The drifts had been sealed at the surface entry points or portals at the time of decommissioning. The drifts had been impacted by parts of the interior roof breaking and coming away, referred to as falls over the ensuing years. Indeed, there had been a notable fall in 2004 while the underground mining operation was active
5 with another operator. The drifts had not been maintained after decommissioning. A geotechnical engineer, Dr Emery was engaged in July 2020. His consultancy agreement was formalised in October 2020. His first report to the senior site executive or SSE, Mr Livingstone-Blevins, on 6 July 2020 confirmed that a surface
10 drill hole to conduct rock testing got stuck in some very hard basalt, indicative of quite problematic ground conditions, consisting of a tertiary unconsolidated or soil layer, giving way to tertiary sediments which consist of basalt flows, being hard, fresh basalt and quite commonly weathered basalts, which become very clay rich.

Dr Emery went underground in late September 2020 and inspected the drifts with the
15 defendant's undermine manager, or UMM, Mr Sykes, the SSE and also an operator deputy, reporting about that a few days later to the SSE. On unsealing the portals and gaining access, inspection revealed that there had been further degradation creating a risk of falls. The drifts had originally been evacuated in an arch 4.5 metres in height with a flat concreted roadway which was six metres wide. There were seen
20 to be floor heave where the concrete roadway had lifted. The walls or ribs of the drifts had previously been shotcreted, and had also come away and fallen in parts of the drifts. Moisture was evident.

Dr Emery was able to uncover an historical report to do with the general instability
25 of the rock strata at that underground mine working site. The ground was clay rich weathered basalt and contained smectite which is a form of clay that is moisture sensitive. Shotcrete does not bond or adhere particularly well to clay. He provided that data to the defendant's technical services superintendent, Mr Jamieson, and recommended a surface inspection be conducted. He reported to cracking and water
30 pooling in the surface above the falls.

Mr Burgess was a mining consultant who had extensive experience with mining operations in the Bowen Basin. He provided information to the UMM on 23 October
35 2020 about the unstable strata causing falls which he described as soft, clay, sand, lumps of rock, made more unpredictable by shotcrete failure. Dr Emery provided further advice on 31 October 2020 and informed the defendant company about how shotcrete failures were common in that mine site. Mr Strawson from Rock Doctors was not called, but a document tendered confirmed that he had provided advice to the
40 defendant in mid-November 2020 that anchors would not get through the rich clay material and recommended the carports that Mr Bettinzoli and others described in their evidence.

Dr Buddery gave advice on 5 April 2021, the strata failures appeared to be due to
45 unreinforced weak strata overwhelming the shotcrete support. On 6 July 2021, Dr Buddery again advised that the falls appeared to be due to unreinforced weak strata overwhelming the shotcrete, following gradual failure of the shotcrete. On the night shift of the 11th into the 12th

of August 2021, Mr Weir provided his deputy statutory report about seeing dribbling and fretting of the shotcrete at the lip of the existing fall at manhole 20/21, causing the mine record entry to issue. Following his last underground inspection on 20 August 2021, Dr Emery advised the defendant two days later on 22 August that fresh moisture was building on the out-bye lip at manhole 20 in the centre of the roadway, which had been freshly shotcreted, having an appearance of a darker colour, with water droplets forming on the outside.

The workplace risk assessment and control or WRAC process was implemented, and the steel sets strata method commenced following that. Another in-bye muckpile movement, with material falling down the heap, was documented and confirmed by a witness, as having occurred on 31 August 2021. There was no evidence of any falls of material or of movement over the area of the drift which had been remediated by using the steel sets. In the circumstances, I find that there was a complete and surprising, if not alarming, lack of consultation in the decision to make the change to abandon the original strata support method, as I have identified it.

There appears to me to have been no consultation process at all, certainly none was done with the relevant geotechnical engineers. By that stage, Dr Emery did not have clearance to go underground. He understood his role was to support Dr Buddery. Neither man had been given the other's reports. It seems to me the meeting held on 10 September 2021 only served to confirm that a decision had already been made without any meaningful discussion about the risk of making that change, whatsoever. I note the meeting was called for by Mr Bettinzoli who did not even have a managerial role. I am unpersuaded, as was the jury, the email from Dr Buddery dated 7 September 2021 was a clear advice by him that the shotcrete alone method was an appropriate method for strata support.

Even more so, considering the lack of instructions provided to him about ground instability. I accept his evidence, for example, that, if he had been made aware of the incident recorded as happening in the vicinity of the remediation work being done at the fall at manholes 20 and 21 on 11 or 12 August 2021, that he would have changed his advice. In my view, it was correct for the jury to reject the assertion that his advice provided the reason for the change to the strata support method, with respect. His advices were predicated on the basis that the strata was and had remained stable. The clear caveat which predicated the advice he gave meant that it could not possibly be regarded as being up-to-date and reliable, especially to justify the change which was made to the strata support method.

I reject the defendant's argument that it is unknown what Dr Buddery meant by saying his advice would have changed. That was a particularly poignant part of the case. I recall the exasperated look on the witness's face and his delay in answering and the pointed way he said the words. Those things could not possibly have been lost or misconceived by anyone in the courtroom, in my view, and there was no doubt in my mind what he was meaning to convey, in saying his advice would have changed. The process of remediating another high arched, domed out, rib fall out-bye in

the vicinity of manhole 19 and the conveyor drift had been successfully mucked out and shotcreted and cavity-filled without the use of steel sets.

5 In my view, that was a markedly different fall, which did not impact the roadway. It
also had optimised geometry which held it in place. The fact that that strata support
method was sufficient in that part of the conveyor drift could not possibly mean it
would be sufficient at the fall at at manhole 20/21. There was a complete lack of any
documentation which recorded what effort, at all, was made to identify, analyse and
10 assess risk and to avoid or remove unacceptable risk. That is especially so, having
regard to the obvious and inherent risk that I have already mentioned. The only
available inference is that was because there was none undertaken. The position of
the fall at manholes 20 and 21 was, to the defendant's knowledge, particularly
unstable.

15 There was tertiary clay, which was, of course, impervious to shotcrete. There was no
way of knowing what was behind the fall at manholes 20/21 because of the other fall
at manhole 23, such that workers were not able to see what was behind 21. Other
options such as drilling from the surface and filling the void and reminding the drift
was advanced by a geotechnical engineer but, it seems, disregarded. There had been
20 a series of incidents and falls of material that further highlighted the clear and present
risk. In my view, there were clear warning signs. There was also presence of water
or moisture, which would have been relevant to the ability to maintain overhead
strata support. The environment is inherently dangerous. No coal mine worker
should ever be placed in the perilous position of working under unsupported and
25 unstable roof, as much was accepted by the defendant and their witnesses in the trial,
that is the people who worked there, or were contracted to them.

I accept that there was in existence an established change management procedure for
the remediation work, but there was no planning or risk assessment engaged in
30 before a verbal instruction to the coal mine workers was given to drill stand pipe
holes into the shotcrete in-bye of the last set of steel sets leading to the incident here.
The workers were working under unsupported ground. There were no measures in
place to ensure that the workers were not using water while drilling, which is what
they were doing, given the knowledge of the defendant of the need to not introduce
35 water into the already unstable and moisture sensitive overhead, clay-rich strata.
Indeed, Dr Buddery's advice for the use of shotcrete was to keep water out, to guard
against the weakness caused by water. I am prepared to find that it was in those
circumstances that the exposure to unacceptable risk occurred.

40 Consistent with the jury's careful verdict, I am satisfied there was ample evidence to
conclude it was the overhead shotcrete and unstable strata it had been sprayed on that
fell on and entombed Mr Dawson and Mr Morgan and not some other septum failure
further in-bye. The falling of that material of course caused the death of Mr Dawson
and serious injury to Mr Morgan. There was a preponderance of evidence that
45 shotcrete alone was a simply inadequate strata support method. That was why it had
never been seen done, with perhaps one unusual exception internationally that Dr

Buddery spoke about. But certainly not in the clay-rich ground in the Bowen Basin coal reserves. I do accept that the defendant company had conducted a change management risk assessment generally, in the remediation work, and that included about the application of shotcrete. And there were indeed other systems in place
5 about safety.

I am satisfied the workforce were appropriately credentialled and encouraged to work in a safe manner. In some respects, all of that evidence only proved to highlight, in my mind, the lack of engagement when this decision to change
10 remediation practice was made and simply communicated to the workforce. In my respectful view, it was embarrassing for the defendant to seek to cast blameworthiness onto Dr Emery and, perhaps to a lesser extent Dr Buddery, in all of the circumstances. The relevant circumstances being that there was crucial and relevant information the defendant simply did not inform either of those experts
15 about. They did not even seem to promote information sharing between the two of them, I am prepared to find, about this particular decision. I am not prepared to accept that the obvious effort to cast blame and responsibility onto Dr Emery, which involved also challenging him about his professional obligations, was just a technical point of causation, as is submitted.

There was, in my mind, no doubt that the defendant was seeking to hold him personally responsible for having withheld information and that the strata failure did not originate in the strata above and in front of the workers as they said it did but happened rather further in-by of manhole 21. The clear suggestion was that he
20 should have warned – forewarned the defendant about the possibility of some other septum failure further in-by, which I have already disregarded for the purposes of sentence. The change management system about this particular decision, to change the strata support method, was, it seemed to me, wholly inadequate. Mr Bettinzoli and Mr Jamieson appeared to engage almost in tandem with each of the geotechnical
25 engineers and independently at each time of their engagements with each of those men about this change.

The management, it seems, made decisions absent of consultation. No wonder Mr Bettinzoli appeared bewildered by what was going on, which precipitated him calling
35 the meeting on 10 September. There was a lack of consistency in providing the geotechnical engineers with the information, such as the deputy's reports, which impacted their ability to be aware of and advise the defendant about appropriate strata support over the continuum of the remediation work. There was some evidence the coalmine workers were using an inadequate and rudimentary manual
40 method of gauging rib and roof converges, which is referred to as the use of pogo sticks, which, it seems to me were quite impractical and an obviously inferior method, as opposed to using electronic measuring equipment to gauge and record real-time convergence monitoring.

45 Even if the pogo sticks were used, there was an inadequate documentation about what those things would tell the people who need to know. I could not understand why the meeting on 10 September could not simply be delayed and allow for Mr

Emery to attend onsite for an inspection, as he offered to do. Dr Buddery was not in the locality, but the same consideration applied. I am prepared to find the decision to make the change was rushed, had already happened, lacked any consultation and was an inherently fateful one, fraught with obvious exposure of coalmine workers to
5 unacceptable risk. There was no effort made to document the change.

There was nothing to indicate why it needed to change. There was evidence, of course, that the void above the steel sets was getting higher. Perhaps one way of overcoming that was pumping more Rocsil into the cavity, as was occurring.
10 However, Mr Jamieson also spoke about the time that it was taking to erect and instal the steel sets. Perhaps that was the reason. Perhaps it also had to do with the concern of the widening gap above the steels sets and the inability for them to be able to withstand a fall on to it, but there was simply no evidence to turn to to explain why such a decision was made in such haste and without consultation about these
15 things.

At the very least, remediation work could have stopped, and a WRAC could have been conducted with participation of all relevant and experienced contractors and personnel. I am not asked to and specifically do not draw the inference that this was
20 done out of financial expediency. The Crown case was not run that way at all. Financial imperative is ignored in considering the defendant's conduct and in imposing sentence.

I accept the affidavit evidence that the defendant has done their best in supporting the workforce generally, and also the efforts made to support the deceased gentleman's
25 family and also the injured man, Mr Morgan.

I do not find that that equates with an expression of remorse. Responsibility was not accepted. It is hard to conclude, as I am asked to, that the evidence shows that the corporation is sorry for something it says it did not do. I am prepared to find that this
30 was a gross breach of the obligation imposed upon the defendant and the degree of the defendant's negligence was of high order, which I think is consistent with the evidence supporting the verdict of the majority of the jury. I cannot accept the assertion made on the defendant's behalf that this was merely an aberration.

35 Before I come to the victim impact material, I think it appropriate to acknowledge the considerable bravery show by Mr Jesse Morgan and Mr Daryl Weir in recounting the harrowing events of 14 September 2021. I noticed firsthand that both men restrained their obvious emotion whilst giving their evidence. They were polite, respectful and had an accommodating forbearance while giving their evidence. They
40 were forthright, measured and not prone to exaggeration. It must have been a particularly difficult process to have to talk about the events leading up to and at the time of the roof collapse and also the aftermath. There was obvious respect and mateship that they held with Mr Dawson, which clearly compounded their restrained
45 emotional state. I found them to be quite impressive witnesses who did their best to accurately and honestly recount their observations and actions.

Further, and as I placed on the record during the trial, I was impressed by the appropriate and entirely respectful conduct of all observers in the courtroom at the time of the trial, some of whom, as I came to be aware, included members of the deceased's family. And, as I also said at the time, that compliment certainly extends
5 to the defendant's representatives.

Mr Dawson's daughters should be very proud of the courage that they displayed in reading their victim impact statements in open court today. The victim impact material itself valiantly attempts to articulate the sense of loss and grief caused to the
10 family unit, the fond and proud memories of a hardworking, intelligent, jovial, caring, loving father and family man.

The lost chance for his daughters, son, partner and grandchildren and other family members to have the benefit of his example and guidance. The inability to celebrate
15 family milestones beyond his passing. The impact caused personally to the victim impact statement writers and, I accept, to their wider families, has simply been immense as any avoidable workplace death would be. There is, of course, the initial shock of being notified of the loved one's death. The harrowing realisation that his body could not be recovered for some time. The constant reminder when this case
20 receives media attention, or when other mine-related or workplace incidents occur.

There has been financial impact, disruption to the normalcy of family life and decompensation in various people's mental health and wellbeing. He was not only a
25 supportive family man, but it seems to me a considerate and well-liked work colleague and mate to others, in addition to his considerable practical skills.

Turning to the imposition of a just sentence, the defendant is, of course, entitled to a trial, but the plea in mitigation of penalty falls away following conviction. Penalty is
30 not to be increased, but the lack of remorse limits the matters which can be advanced to reduce or mitigate penalty.

I must have regard to the relevant sentencing guidelines in section 9 of the Penalties and Sentences Act, which confirm the purposes for which sentence may be imposed
35 on an offender are relevantly: (a) to punish the offender to an extent or in a way that is just in all of the circumstances; or (b) to provide conditions in the court's order that the court considers will help the offender to be rehabilitated; or (c) to deter the offender or other persons from committing the same or a similar offence; or (ca) to recognise the harm done by the offender to a victim of the offence; or (d) to make it clear that the community, acting through the court, denounces this sort of conduct in
40 which the offender was involved; or (e) to protect the Queensland community from the offender; or (f) a combination of two or more of those purposes.

Relevantly, in this case, the provision also confirms that in imposing a just sentence, I must have regard to: (b) the maximum penalty prescribed; and (c) the nature of the
45 offence and how serious the offence was, including any physical, mental or emotional harm done to a victim; and (d) the extent to which the offender is to blame for the offence; and (e) any damage, loss or injury caused by the offender; and (f) the offender's character, antecedents; and (g) the presence of any aggravating or mitigating factor concerning the offender; and (h) the prevalence of the offence; and

(i) how much assistance the offender gave to law enforcement agencies in the investigation of the offence or other offences; and (q) anything prescribed by this Act to which the court must have regard; and (r) any other relevant circumstances.

5 Because of the fatal harm caused here, section 9(3) confirms: (b) the need to protect any member of the community from that risk of physical harm; (c) the personal circumstances of any victim of the offence; (d) the circumstances of the offence, including the death of or any injury to a member of the public, or any loss or damage
10 public safety; (g) the past record of the offender, including any attempt at rehabilitation, and the number of previous offences of any type committed; (h) the antecedents and character of the offender; (i) any remorse or lack of remorse of the offender; and (k) anything else about the safety of members of the community that the sentencing court considers relevant.

15 Being a fine-only offence here, given that it is a corporation, with a maximum prescribed penalty of \$13,785,000, section 48 of the Penalties and Sentences Act confirms the need to take into account, as far as practicable: (a) the financial
20 circumstances of the offender; and (b) the nature of the burden that payment of the fine will have on the offender.

This is the first prosecution for industrial manslaughter by an employer, under this provision.

25 There are no strictly comparable sentence authorities. One is from another state, which has a differing sentence regime or where different considerations generally apply. Other decisions of other Judges of this court in other proceedings under other Acts are only ever of persuasive value, with respect. There is always a wide variety
30 of penalties imposed by Judges at an intermediate court level. That does not make one or another of them right or wrong.

A review of the objective features of the cases demonstrates the factual
35 circumstances are so very different from the circumstances here to render them of little use to me, with respect. I note, for instance, an early guilty plea was entered in the Brisbane Auto Recycling prosecution brought under the Work Health and Safety Act. The Work Health and Safety Act is a far more prescriptive Act than the Coal Mining Safety and Health Act – sorry, the Coal Mining Safety Health Act is far more prescriptive than the Work Health and Safety Act, and, with respect, as a
40 circumstance, little assistance is derived by conducting a comparison of those cases with this one, other than to reach the conclusion that this one is plainly more serious.

Otherwise, as Burns J stated in *R v Lee* [2024] QCA 36 at [11] by reference to the observations of Keane JA, as he then was, in *R v Dwyer* [2008] QCA 117, “The applicant’s counsel set out at the hearing to compare the facts of this case with the
45 facts in one or more of the comparable decisions relied on, but there is scarcely ever any profit in doing so.” In the circumstances, I revert to general principles, following the cases of *R v Ponting* [2022] QCA 83, *R v Goodwin*; *ex parte Attorney-General (Qld)* [2014] QCA 345, and *R v EQ* [2021] QCA 257, although allowing for the yardstick assistance of those other cases.

I accept the prosecution submission, supported by authority, that Work Health and Safety offences ought not to be regarded as any less serious than other offences resulting in the death of a human being. The explanatory notes for the Bill underpinning this legislative change in 2020 that introduced the crime of industrial manslaughter described it as an “extremely serious” offence reflective of the very high maximum penalty. Offences to do with the loss of human life have always been viewed seriously by the courts. In *Nicholson v GCMR Project Services Pty Ltd* [2025] QCA 242 at 13, citing *Australian Building and Construction Commissioner v Pattinson* [2022] 274 CLR 450 at [10], it was stated that sentences for Work Health and Safety offences must “bear a reasonable relationship to the maximum penalty”. I am prepared to accept that statement of principle as applying here.

R v Cordwell [2023] QCA 26 confirms that analogous legislation strongly suggests that general and specific deterrence are to be regarded as – are to be regarded as particularly relevant considerations in cases like this. I am persuaded that in consideration of all of the circumstances of this case, it is the objective seriousness of the offence rather than the personal circumstances of the offender which takes on some prominence. I have to take into account all of the circumstances, which must necessarily include the harm caused to Mr Morgan, even though it was not charged. I accept the assertion on the defendant’s behalf that specific deterrence is of lesser importance given that the company is no longer trading. The defendant has no previous convictions. That is taken into account.

It is impossible for me to find whether it or its parent company is or is not in a strong financial position, according to the published and available financial statements. The loss of the contract with Sojitz after the incident and the ensuing loss of significant financial return does not of itself mean that the court should substantially reduce the penalty, in my view. A defendant is often in a worse position for having been charged with a serious offence in addition to the cost incurred in mounting a defence. In the case of a personal defendant, for example, a proportion of them are often remanded and lose the ability to generate any income whatsoever, in a serious offence. Whether there is to be a measure of indemnification by an insurer ultimately is irrelevant to the quantum of the fine.

I accept the corporation, over its short trading period, was a good corporate citizen. This was not a case of the defendant company with a cavalier or less than satisfactory focus on providing a safe work environment generally. As I have said, I accept there were safe work practices and systems in place, but, as I said earlier, that simply highlights and confounds the decision to change the strata support method without reference to them.

I have been asked to find that the defendant is remorseful. In *R v O’Sullivan; ex parte Attorney-General Qld, R v Lee; ex parte Attorney-General QLD* [2019] QCA 300, the court confirmed that remorse is something personal to the offender, before stating at paragraph [150], “Remorse, if it is to be relied upon, must be proved as a fact, and it should not always be taken as having been sufficiently proved just because a submission has been made the offender is remorseful.” I am prepared to

find, notwithstanding the evidence, that there has been a lack of remorse demonstrated in the conduct of the case, primarily in attempting to blame the geotechnical engineer, Dr Emery. Regret and remorse differ greatly.

5 I accept there were considerable efforts made and agreements reached to reduce the cost and length of trial. I have made my findings about the gravity of the defendant's negligence. Condign punishment is called for. I am satisfied that a conviction should be recorded following trial and conviction for a serious offence, where there is no evidence about the impact upon the defendant's continued economic wellbeing
10 apart from being told it is no longer trading. There is, with respect, nothing unique which means the exercise of the discretion should be exercised in the defendant's favour.

15 In my view, balancing the competing considerations, a just sentence is that the following order be made: the defendant company, Mastermyne, is convicted and fined the sum of \$7 million. Payment of the fine is to be referred by the Registrar to the State Penalty Enforcement Register for registration after a period of 28 days. I further order, pursuant to section 264(3) of the Coal Mining Safety and Health Act 1999, that Mastermyne pay to Resources Safety and Health Queensland, RSHQ, the
20 sum of \$299,940.95, being the reasonable investigation and preparation costs incurred by RSHQ. Payment of the prosecution costs is also to be referred by the Registrar of the court to the State Penalty Enforcement Register. In the exercise of the discretion, having regard to the matters in section 12 Penalties and Sentences Act, a conviction is recorded. Any orders that I have neglected to make?

25 MR HUNTER: Your Honour, just in respect of the order for costs, we examined that issue whilst your Honour was considering your decision, and whilst the Justices Act does permit a Magistrates Court to refer costs to SPER, the SPER Act itself does not specifically allow for costs to be referred, and there is nothing in the District
30 Courts Act that would give your Honour power to do it either. So, in our submission, the appropriate order is to simply order that the – those costs be paid, and if your Honour would – were to allow time to pay, we have – we would not wish to be heard about that.

35 HIS HONOUR: Yes. All right then. Sorry, I – I did not realise that there was that discrepancy, and, indeed, I thought I had actually made that order recently. In the circumstance, the order will be amended so that the registrar is not to refer the payment of either the fine or costs to the State Penalty Enforcement Register - - -

40 MR HUNTER: No. Your Honour can refer the fine, just not the costs.

HIS HONOUR: I see. Right. Sorry about that. I misunderstood you again. In respect of the costs order – and 18 months for that, or - - -

45 MR HUNTER: Yes, your Honour. Yes, your Honour.

MR MURDOCH: Yes, your Honour.

HIS HONOUR: In the circumstance, I remove the direction about the paying of the prosecution costs being referred to the State Penalty Enforcement Register. In lieu of that order, it is ordered the defendant pay the costs within 18 months. And there is no need for any default on that?

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MR HUNTER: No, your Honour.

HIS HONOUR: Action can be taken. Okay. And anything else, then, apart from that?

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MR HUNTER: No, your Honour.

HIS HONOUR: Mr Murdoch?

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MR MURDOCH: No, your Honour.

HIS HONOUR: Thank you both very much. And as I had acknowledged at the time of trial, I thoroughly appreciate the considerable assistance provided by all in the conduct of that challenging case. Thank you. We will just adjourn, please.

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