

Prosecution Bulletin no. 10/2016

Summary

- On 20 December 2016, a quarrying company was convicted and fined \$7,500.00 for wilfully contravening a condition of its environmental authority (EA).
- The contravention involved the clearing of vegetation to expand the quarry, which was specifically prohibited by the environmental authority.
- The company was also ordered to pay legal costs of \$1,750.00 and investigation costs of \$2,516.00. No conviction was recorded.
- The sentence was delivered in the Hervey Bay Magistrates Court.

Facts

The company is the holder of an environmental authority for extraction and screening at a quarry north of Hervey Bay. The site is 73.5ha and is 80% groundwater dependent ecosystems, with the remaining 20% developed for sand extraction.

In 2008, the Department of Environment and Heritage Protection (the Department) required the company to conduct an environmental evaluation. This led to an amendment of the EA, in particular conditions prohibiting excavation below a certain level (due to the importance of the groundwater to the ecosystems) and prohibiting the clearing of any vegetated areas.

During a compliance inspection on 7 July 2015, EHP officers became aware of approximately 3,000 square metres of land clearing adjacent to the extraction pit on the southwest corner of the site which had been unlawfully cleared.

A comparison of imagery between 5 October 2013 and 30 May 2015 clearly depicts the clearing of the vegetation on the site, confirming that the clearing occurred sometime between those two dates.

The company was subsequently charged with one offence of wilfully breaching a condition of its EA, contrary to section 430(2) of the *Environmental Protection Act 1994*.

Outcome

On 20 December 2016, the company pleaded guilty before the Hervey Bay Magistrates Court and were fined \$7,500. The company was also ordered to pay both legal and investigation costs in the amounts of \$1,750 and \$2,516 respectively.

In sentencing the company, the Court took into account the early plea of guilty by the company, the cooperation by the company with EHP, the lack of previous criminal history of the company and that the company was generally a good corporate citizen in the community.

The Court also noted however that breach EA offences are serious and that this is reflected in the maximum penalty available in the legislation.

This prosecution serves as an important reminder that the Department takes the protection of the environment seriously, and all holders of an EA doing business in Queensland must ensure that they operate within the scope of their environmental authority.

January 2017

Disclaimer

This document has been prepared with all due diligence and care, based on the best available information at the time of publication. The department holds no responsibility for any errors or omissions within this document. Any decisions made by other parties based on this document are solely the responsibility of those parties.