

## Prosecution bulletin no. 4/2012

### Summary

A large Australian chemical manufacturing company operating near Gladstone was penalised \$432,000 in the Gladstone Magistrates Court on 1 November 2012.

The defendant was charged with four offences of contravening a condition of a development approval under section 435(2) of the *Environmental Protection Act 1994*—by allowing contaminated water and contaminated effluent to be discharged from the site.

The company was ordered to allocate \$250,000 of the fine to public-benefit projects in the Gladstone area.

### Facts

The company operates a large chemical manufacturing and processing facility at Yarwun near Gladstone—manufacturing chlorine, sodium cyanide and ammonium nitrate used in mining explosives.

The facility is the world's largest cyanide manufacturer, producing highly toxic forms of cyanide. The contaminated process water generated at the facility is disposed of through a system that treats, stores and flushes effluent from the site to the Gladstone Harbour via a trade waste facility operated by Gladstone Regional Council.

The contaminants in the effluent are regulated through conditions in the development approval, which stipulates specific contaminant release limits and that testing of the effluent quality must be done prior to release.

On 1 February 2010 a heavy rainfall event occurred in the Gladstone area. Departmental officers attended the site and observed the unauthorised discharge of waste water into a stormwater drain located off-site.

Samples revealed the waste water was contaminated with cyanide caused by run-off from shipping containers—as well as stored, returned and repacked cyanide packaging located near an unlicensed discharge point.

On 18 October 2011 the defendant was charged with one count of breaching its development approval by releasing contaminants to waters.

In March 2012, investigations by the department revealed a number of occasions between 20 March 2011 and 22 February 2012 where the defendant discharged effluent to waters via the trade waste facility. This discharge contained total cyanide levels in excess of levels permitted by the development approval.

It was identified that the defendant had not been testing the effluent for total cyanide prior to discharge due to a lack of appropriate testing equipment.

### Outcome

On 6 June 2012 the defendant was charged with a total of 279 offences of wilfully breaching its development approval by:

- releasing total cyanide in excess of approval limits
- failing to test before the release of effluent
- failing to notify the department of breaches of a condition.

On 1 November 2012 the defendant pleaded guilty, before the Gladstone Magistrates Court, to four offences of contravening a development condition of its development approval under section 435(2) of the *Environmental Protection Act 1994*. The defendant was fined a total of \$432,000 for the four offences.

The magistrate ordered the defendant allocate \$250,000 of the penalty to public-benefit projects in the Gladstone area under the provisions of section 502 of the amended *Environmental Protection Act 1994*.

Under the section 502 order:

- \$100,000 will be provided for a project defining the spatial and temporal foraging habitat use by green turtles within Port Curtis
- \$90,000 will be allocated to the Conservation Volunteers Australia Program Gladstone
- \$60,000 will be assigned to the Gladstone Healthy Harbours Partnership.

November 2012

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