

Prosecution Bulletin no. 1/2017

Summary

- A quarrying company pleaded guilty to one offence under section 426 of the Environmental Protection Act 1994 (the 'Act') for operating a quarry without an environmental authority.
- The company was fined \$70,000 by the Roma Magistrates Court.
- The sentence was delivered in the Roma Magistrates Court on 13 February 2017 by Magistrate Hasted.
- The defendant company was ordered to pay legal and investigations costs totalling \$33,136.36.
- No conviction was recorded.

Facts

In December 2012, the defendant company obtained an environmental authority which allowed only for the provision of quarry materials for flood reconstruction works and the upgrading of a State-controlled road. The defendant company established a hard rock quarry near Roma (the 'site').

The activities at the site were further restricted by a condition of the approval which restricted the quarrying activities to certain areas.

During a site inspection on 9 January 2014, Department of Environment and Heritage Protection ('EHP') officers were discussing the nature of the operations with the site manager of the defendant company. The site manager stated that "about 90%" of the quarrying material was being used for the Warrego Highway upgrade and that a small amount was being sold to other companies for the Reedy Creek gas hub.

Investigations by EHP revealed that during the period 9 May 2014 and 30 October 2014 large quantities of extracted material were being delivered to entities not associated with flood reconstruction works or the State-controlled road. This is not authorised by the defendant company's EA and as a result the defendant was conducting an environmentally relevant activity without an EA.

As a result of the conduct, the defendant received a commercial benefit and avoided road levy charges.

Outcome

On 13 February 2017, the company pleaded guilty to the charge, and the sentence hearing was heard by Magistrate Hasted, in the Roma Magistrates Court.

The Court imposed a fine of \$70,000 and ordered the company to pay the EHP's legal costs of \$12,500 and investigations costs of \$20,636.36. No conviction was recorded.

In sentencing, Magistrate Hasted took into account the following:

- The plea of guilty to the charge;
- The defendant company had no prior convictions;
- The defendant company's lack of compliance history over its long history and vast operations and sites;
- The defendant fully co-operated with EHP during the investigation;
- Once notified of the offending, Senior Management took prompt action to address it;
- The period of time over which the offending occurred;
- The profit derived from the offending by the defendant;
- The fees foregone to government departments such as annual fees for environmental authorities and road user levies;
- The failure of the defendant company to comply with the warnings given regarding the offending conduct;
- The cost to the community of setting the matter down for a five day summary hearing and the prosecution preparing for that, before the Defendant advised of its intention to enter a guilty plea.

February 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.