

Prosecution Bulletin no. 7/2015

Summary

- A Queensland grazier, Mr Vincent 'Paddy' Boyle, has been convicted and fined \$15,000 by the Warwick Magistrates Court after pleading guilty to one (1) charge of interfering with a natural resource of a protected area without authority, contrary to section 62(1) of the *Nature Conservation Act 1992* (the 'NC Act').
- The offence related to the clearing of 1200 square metres of vegetation and constructing a post and wire fence within a disjunct section of Main Range National Park, near the Southern Queensland town of Killarney.
- In delivering his sentence on 7 April 2015, Magistrate Manthey took into account that Mr Boyle was previously convicted in 2004 for an offence of taking natural resources of a protected area contrary to section 62 of the NC Act.

Facts

Between 23 April 2009 and 8 August 2014, Mr Boyle was responsible for constructing and keeping a fence within Main Range National Park for the purposes of keeping his cattle outside of the dense adjacent forest.

In order to construct the fence, Mr Boyle cleared vegetation, including tall eucalypt trees, along the proposed fence line using a 'D6' bulldozer. The fence line was adjacent to a previously cleared area within the National Park (it is not alleged that Mr Boyle was responsible for clearing this area).

Mr Boyle engaged an employee and contractors to undertake further clearing by way of chainsaw and to construct a post and four-strand barbed wire fence.

The fence constructed within the National Park was approximately 290 metres in length and the total area cleared for the construction of the fence was approximately 0.12 hectares (1200 square metres).

At all relevant times to the offence, Mr Boyle was not an authorised person, and was not authorised under the NC Act to take, use, keep or interfere with a natural resource

of the National Park.

The offences were discovered by Queensland Parks and Wildlife Service ('QPWS') Rangers on 20 January 2014 after a public complaint concerning the clearing.

Following the Department's investigation, Mr Boyle removed the majority of the 290 metres of fence within the National Park, and with the agreement of the QPWS and at his own expense, installed a fence approximately 290 metres along the common boundary between his property and the National Park.

Outcome

On 7 April 2015, Mr Boyle pleaded guilty to the charge of interfering with a natural resource of a protected area without authority, contrary to section 62(1) of the NC Act.

The Warwick Magistrates Court fined Mr Boyle \$15,000 and ordered him to pay legal costs of \$1,500. The Court also ordered that the conviction be recorded.

In sentencing, the Court took into account the following:

- Mr Boyle's early plea of guilty;
- Mr Boyle's cooperation with the Department and its investigation;
- Mr Boyle's previous conviction for a similar offence, although that conviction related to a larger area of clearing than the present case;
- The restoration work undertaken by Mr Boyle in removing the offending fence and constructing a new fence along the boundary between his property and the National Park;
- The small area of interference and the biodiversity status of the vegetation cleared being 'not of concern';
- Mr Boyle's elderly age;
- The recklessness of the offence; and
- The seriousness of the offence.

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