

Prosecution Bulletin no. 8/2018

Summary

- On 18 April 2018, a construction company pleaded guilty to one offence of clearing protected plants at Berrinba, south of Brisbane.
- The company was fined \$4,000 and ordered to pay \$2,000 in legal costs. No conviction was recorded.

Facts

In October 2015, an Australian-owned civil construction company was contracted to clear vegetation and construct an artificial drainage channel at Berrinba, Queensland.

In November and December 2015, works resulted in the clearance of approximately three hectares of various protected plants that were within a 'high risk area trigger map' under the *Nature Conservation Act 1992* (the Act). This means that any clearing is unlawful, unless a flora survey is provided to the Department that shows there are no endangered, near threatened, or vulnerable species within the proposed clearing area.

The company's consultant incorrectly advised that the vegetation could be cleared without taking any steps under the Act and, as a result, the company did not provide a flora survey to the Department prior to undertaking the clearing. A survey had been undertaken before the clearing that showed that all plants present were categorised as 'least concern' species under the Act, however this was not provided to the Department.

On 5 September 2017, the company was charged with one offence of taking protected plants, contrary to section 89(1) of the Act.

Outcome

On 18 April 2018, in the Beenleigh Magistrates Court, the company pleaded guilty to one offence of taking protected plants, contrary to section 89(1) of the Act.

The Court fined the company \$4,000 and ordered it to pay \$2,000 in legal costs. No conviction was recorded.

In sentencing, the Court considered that while the plants were categorised as 'least concern', the area was included on the 'high risk area trigger map'. In mitigation, the Court accepted that the company relied on the incorrect advice of an independent consultant.

July 2018

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