

Prosecution Bulletin no. 6/2020

Summary

- On 6 August 2020, a company (the operator) was convicted of four offences of wilfully contravening a condition of an environmental authority (EA) and one offence of contravening a condition of an EA, contrary to section 430 of the *Environmental Protection Act 1994* (EP Act).
- A related company, which was the holder of the EA, was also convicted of five offences of failing to ensure that the operator complied with the EA condition, contrary to section 431 of the EP Act.
- Each company was fined \$22,000. The companies were also ordered to pay \$5,000 in legal costs and \$1,809 in investigation costs. No convictions were recorded for the offences.

Facts

The EA permitted the crushing, grinding, screening and milling of concrete and builders' demolition waste at a site in Pinkenba.

The EA included a condition that restricted operations to a specific area to minimise dust and noise emissions. A partially enclosed shed had been constructed on the site to contain such emissions.

On 9 November 2017, officers from the Department of Environment and Science observed the operator using machinery outside the designated area and brought the EA condition to the operator's attention.

Officers subsequently observed machinery operating outside the designated area on four further occasions between January and June 2018.

During the department's investigation, the EA holder stated that operations at the site were being carried out by a related company. The operator was charged with five offences under section 430 of the EP Act for contravening a condition of an EA.

Four of the contraventions were charged as more serious wilful offences under section 430(2) of the EP Act,

because the offences occurred after the EA condition was brought to the operator's attention.

The EA holder was charged with five offences under section 431 of the EP Act for its failure to properly supervise the operator and ensure compliance with the EA condition.

There was no environmental harm caused by the breaches of the EA condition.

Outcome

The Brisbane Magistrates Court accepted the two companies' guilty pleas to all offences on 6 August 2020. Each company was fined \$22,000 for the offences. They were also ordered to pay combined amounts of \$5,000 legal costs and \$1,809 investigation costs. No convictions were recorded for the offences.

In sentencing, the magistrate stated that the companies' activities had been grossly negligent and noted it was readily foreseeable and only a matter of time before a particular event could have caused environmental harm.

The magistrate also noted that the companies had subsequently spent in excess of \$1 million to build structures to prevent environmental harm being caused by dust and noise.

The penalties send a message to EA holders that they are responsible for adequately supervising anyone acting under their EA to ensure compliance with its conditions, and to operators that they must conduct activities in compliance with the EA conditions.

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