

Prosecution Bulletin no.12/2019

Summary

- On 20 June 2019, the operator of a sand mining site on the Sunshine Coast was convicted of four offences of contravening a requirement of a transitional environmental program (TEP), contrary to section 432(2) of the *Environmental Protection Act 1994*.
- The company was fined \$45,000 and ordered to pay \$1,500 in legal costs and \$2,245 in investigation costs. No conviction was recorded.

Facts

The company held an environmental authority for its sand mining activities carried out at a Sunshine Coast site. In September 2016, the department approved a TEP, which contained a number of requirements designed to reduce the significant risk posed by the sand mining activities. This included the risk of water containing high sediment loads being released into downstream environments including a nearby river, particularly during flood events.

Following site inspections and upon review of material provided to the department in response to information requests, it became evident that the company had contravened a number of TEP requirements.

There was no evidence that environmental harm was caused by the contraventions, however the failures to comply with the TEP requirements increased the risk of environmental harm.

The company was charged with four offences of contravening a requirement of a TEP, contrary to section 432(2) of the *Environmental Protection Act 1994*, which related to the following:

- failing to submit a TEP progress report to the department
- failing to carry out a survey to demonstrate containment improvement works were completed satisfactorily
- failing to prepare a design plan for reducing fines mobilisation from water containment infrastructure

- failing to prepare a design plan for improving drainage times for water containment infrastructure.

Outcome

On 20 June 2019, the company pleaded guilty and was convicted of four offences of contravening a requirement of a TEP, contrary to section 432(2) of the *Environmental Protection Act 1994*.

The company was fined \$45,000 and ordered to pay \$1,500 in legal costs and \$2,245 in investigation costs. No conviction was recorded.

In sentencing, the Magistrate noted the seriousness of the offences and although no environmental harm was caused by the contraventions, the failures to provide relevant material to the department, including evidence demonstrating compliance with certain TEP requirements. This impacted on the department's ability to assess the risk posed to the environment. The Magistrate found the company had neglected its environmental responsibilities. In mitigation, the Magistrate considered the early plea of guilty, and that the company had made some attempts to comply with the relevant TEP requirements but had neglected to meet the requirements either by the due date or at all.

The penalty is a reminder that those carrying out environmentally relevant activities must take their environmental obligations seriously and comply with all relevant approvals.

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