

Prosecution Bulletin no. 5/2019

Summary

- A 43 year old male pleaded guilty to one offence of wilfully entering or using a marine park for a prohibited purpose in contravention of section 43(1) of the *Marine Parks Act 2004* (the Act).
- The defendant was observed crabbing in a conservation park ('yellow zone') within the Pumicestone Passage.
- The defendant was fined \$11,000 and ordered to pay \$500 in legal costs and \$1741.13 in investigation costs. No conviction was recorded.
- The sentence was delivered by the Caboolture Magistrates Court on 3 May 2019.

Facts

In March 2017, officers from the Queensland Parks and Wildlife Service undertook covert surveillance of a commercial fishing vessel in the Pumicestone Passage in a joint operation with the Queensland Boating and Fisheries Patrol.

Those aboard the vessel were observed working crab pots and catching, or attempting to catch, Blue Swimmer crabs in excess of the 4 crab pot limit which applies within the yellow zone.

The defendant stated that whilst he was aware of yellow zones and that his vessel was located within one, he was mistaken as to the number of crab pots which he was permitted to use. An excess of 37 pots were used between 22 and 28 March 2017.

Outcome

On 3 May 2019, the defendant pleaded guilty in the Caboolture Magistrates Court to one offence of wilfully entering or using a marine park for the prohibited purpose of taking a natural resource, namely crabbing in excess of the four pot limit, in contravention of section 43(1) of the Act.

The defendant was fined \$11,000. The Court also ordered that he pay \$1,741.13 in investigation costs and \$500 in legal costs. No conviction was recorded.

In sentencing the defendant, the Magistrate took into account his plea of guilty and cooperation with the investigation. The Court also stated that:

- both general and specific deterrence was an important sentencing factor for offences of this kind which are difficult to detect, noting that it took a joint effort from government agencies to discover the offence
- the purpose of the Act is to provide for the conservation of the marine environment, by way of a comprehensive and integrated strategy
- the high penalty reflects society's view that resources of the ocean must be protected
- whilst in the circumstances there was an element of recreational fishing, there was also an element of commerciality in the defendant's conduct
- there is a level of trust placed in users of the marine park, and in particular, commercial fishermen, to nurture the marine environment to ensure that it is available for future generations.

The penalty serves as an important reminder that all users of the Marine Park have an obligation to know and comply with the rules and regulations applying to the area and that the Queensland Government is committed to ensuring the ongoing protection of the marine environment.

May 2019

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