

Prosecution Bulletin no. 13/2018

Summary

- A 46 year old male pleaded guilty to one offence of fishing in a marine national park zone ('green zone') in contravention of section 109(1) of the *Marine Parks Regulation 2006* (the Regulation).
- The defendant was observed fishing in the Tripcony Bight 'green' zone' in the Pumicestone Passage.
- The defendant was fined \$1800 and ordered to pay \$1500 in legal costs and \$1743 in investigation costs. No conviction was recorded.
- The sentence was delivered by the Caloundra Magistrates Court on 14 August 2018.

Facts

On 17 April 2017, Queensland Parks and Wildlife Service rangers observed a small silver boat anchored in the Pumicestone Passage 'green zone'. The Rangers saw the defendant fishing from the rear of the boat.

The boat was intercepted and during the field interview the defendant stated that he knew that they were in Pumicestone Passage but he was not aware that they were in the 'green zone' and admitted to catching two bream in the area.

He also stated that he was aware of 'green zones' around Moreton Bay and despite knowing he was in the Pumicestone Passage, he was not aware that it was a 'green zone'.

At the conclusion of the field interview, the defendant was issued with a Penalty Infringement Notice (PIN) for fishing in a green zone in the amount of \$609.

The defendant did not pay the PIN, but rather elected to have the matter dealt with by a court.

Outcome

On 14 August 2018, the defendant pleaded guilty in the Caloundra Magistrates Court to one offence of entering or using a marine park for a prohibited purpose, namely

fishing, in contravention of section 109(1) of the Regulation.

The defendant was fined \$1,800. The Court also ordered that he pay \$1,500 in legal costs and \$1,743 in investigation costs. No conviction was recorded.

In sentencing the defendant, the Magistrate took into account the defendant's plea of guilty and his cooperation with the investigation, however stated that:

- deterrence, both generally and specifically, was an important sentencing factor for offences of this kind which are difficult to detect;
- the defendant knew of the existence of marine national park zones around Moreton Bay and it is incumbent upon him (and everyone) as a boat operator to inform himself of and comply with the law;
- the purpose of regulating marine parks is for the conservation of the marine environment for everyone, which is achieved through the establishment of zones to protect the natural integrity and values of the areas of the marine park and the department is entitled to trust persons using the marine park to comply with the law;
- members of the community are entitled to trust that other members of the community who use the marine park will comply with the law so that resources will be protected for the future.

The penalty is a reminder that fishing is not permitted in green zones which are important for conservation of the marine habitat.

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