

Prosecution Bulletin no. 2/2015

Summary

- A Central Queensland landowner has been fined \$15,000 and ordered to pay legal costs of \$1,786 for clearing endangered plants.
- The sentence was delivered in the Rockhampton Magistrates Court on 24 March 2015 by Magistrate O'Driscoll.
- The landowner had been charged with 1 offence against section 89(1) of the *Nature Conservation Act 1992*.

Facts

In August 2013, the landowner made inquiries of the Department of Natural Resources and Mines regarding the vegetation management status of a property subsequently purchased by her in Rockhampton. Those inquiries provided her with a number of maps and other information. The landowner was also advised that she would need to contact the Department of Environment and Heritage Protection (the department) before she cleared any plants on her property because there was a possibility that there were plants that were protected under the *Nature Conservation Act 1992* located on the property.

In December 2014, the landowner employed a contractor to clear vegetation for a road and a house pad on her property.

On 13 December 2014, an officer from the department attended the property after a public complaint was referred to the department. The officer observed that at least 30 'cycas ophiolitica' plants had been damaged or destroyed by a bulldozer.

Cycas ophiolitica are a variety of cycad that are protected at law and prescribed as endangered wildlife. The landowner did not have approval to clear the protected plants and as a result, she was charged with 1 count of taking protected plants that were in the wild, without authority, contrary to section 89(1) of the *Nature Conservation Act 1992*.

As a result of the offending, in separate proceedings, the Planning and Environment Court granted an enforcement order requiring the landowner to plant 50 new cycads of the same species destroyed and to protect other cycads that were regenerating in the affected area. That enforcement order is in place for up to 10 years and recorded in the freehold land register.

Outcome

On 24 March 2015, the landowner pleaded guilty to the charge before the Rockhampton Magistrates Court and was fined \$15,000. The court also ordered the payment of legal costs of \$1,786.

In sentencing the landowner, Magistrate O'Driscoll took into account a number of factors including the early plea of guilty, her financial circumstances and good character references.

However, Magistrate O'Driscoll found that the offending was serious and that it was the landowner's duty to be fully informed regarding protected plants on her property. The Court noted that whilst the landowner's conduct may not have been deliberate, it was reckless and together with the enforcement order, the fine must be substantial as wildlife had been destroyed on the direct instructions of the landowner.

This case is an important reminder that all landholders should contact EHP before undertaking any clearing to make sure protected plants are not at risk of being damaged or destroyed.

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