

Prosecution Bulletin no. 16/2015

Summary

- A Central Queensland property development company has been fined \$50,000 and ordered to pay legal costs of \$2,260 for clearing 36 endangered plants.
- The company's CEO was also fined \$10,000 for failing to ensure the company complied with the law.
- The sentence was delivered in the Rockhampton Magistrates Court on 27 November 2015 by Magistrate Press.
- The company had been charged with one offence against section 89(1) of the *Nature Conservation Act* 1992 (the Act), and the Chief Executive Officer ('CEO') had been charged with one offence under section 162(2) of the Act.

Facts

Between April 2014 and July 2014, clearing was conducted by unidentified contractors at a property outside of Yeppoon (the 'site') owned by a property development company.

As a result of the clearing, 36 endangered *Cycas ophiolitica* (Marlborough Blue cycad) ('cycads') were damaged or destroyed.

The Department of Environment and Heritage Protection ('EHP') was alerted to the clearing by a public complaint.

The EHP investigation into the clearing revealed that the company's CEO was aware of the endangered plants growing on the property, and of the requirement to obtain appropriate permits under the Act before any clearing on the property could occur.

The company was subsequently charged with one offence of taking 36 protected plants, contrary to section 89(1) of the Act.

The company's CEO was also charged with one offence of failing to ensure the company complied with the Act, contrary to section 162(2) of the Act.

In September 2015, the Planning and Environment Court made enforcement orders under the Act requiring the

defendant company to propagate and plant 144 of the cycads on the site.

Outcome

On 22 October 2015, the company and CEO pleaded guilty to the charges, and the sentence hearing was part heard by Magistrate Press in the Yeppoon Magistrates Court. On 27 November 2015, the sentence hearing resumed before Magistrate Press in the Rockhampton Magistrates Court.

On 27 November 2015, the court imposed fines of \$50,000 on the company, and \$10,000 on the CEO. It further ordered the company to pay EHP's legal costs of \$2,260. No convictions were recorded.

In sentencing, the Magistrate Press took into account the following:

- The early pleas of guilty;
- The defendants had no prior convictions;
- The defendant company had consented to the enforcement order made by the Planning and Environment Court;
- The defendants were aware of the presence of the protected cycads on the site, however failed to ensure appropriate permits were obtained prior to clearing; and
- The clearing was done with a commercial purpose in mind as the clearing mirrored the proposed subdivision of the site.

November 2015

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