

Prosecution Bulletin no. 3/2018

Summary

- A Narangba based waste management company, Hahn Group Pty Ltd (Hahn) pleaded guilty to multiple offences under the *Environmental Protection Act 1994* (the Act).
- The offences included wilfully and unlawfully causing serious environmental harm, giving the former Department of Environment and Heritage Protection (the department) a document containing information which it knew or ought to have reasonably known was false or misleading and numerous offences of wilfully contravening a condition of its environmental authority (EA).
- An executive officer of the company pleaded guilty to 14 offences of failing to ensure that Hahn complied with the Act including in relation to causing serious environmental harm and wilfully contravening EA conditions.
- Hahn was fined \$130,000 and ordered to pay costs of \$32,123.64. The executive officer was fined \$40,000.
- The sentence was delivered in the Caboolture Magistrates Court on 7 March 2018.

Facts

Hahn holds an EA authorising it to carry out environmentally relevant activities at its former regulated waste recycling and reprocessing facility in Narangba.

Hahn accepted oily waste and used cooking oil and, following complaints in late 2015 in relation to the handling of waste water on the site, departmental officers inspected the site.

During those investigations, numerous contraventions of Hahn's EA were observed, including the unlawful discharge of contaminated water from the site, the failure to prevent unauthorised access to the site and numerous failures as a result of Hahn not properly implementing a stormwater management plan.

Further investigations identified additional contraventions including failing to monitor and test groundwater, and regular unlawful releases of contaminated water. Sampling carried out by the department showed that the diesel-like contaminants found on the site had entered the adjacent wetlands and caused serious environmental harm.

The Wallum Froglet (*crinia tinnula*), which is listed as vulnerable under the *Nature Conservation Act 1992*, was found in the wetlands and around the location of the discharge suggesting the wetlands are of a high conservation/ecological value.

Scientific evidence showed, amongst other things that the presence of the contaminants in the wetland were at least 16.2 times higher than the level at which lethal effects are seen amongst aquatic organisms within 24 to 96 hours.

Following the investigations on site, the department became aware that Hahn had also provided false and misleading information in its annual return.

Outcome

On 7 March 2018, Hahn pleaded guilty before the Caboolture Magistrates Court to:

- One offence of wilfully and unlawfully causing serious environmental harm contrary to section 437(1) of the Act;
- One offence of giving the administering authority a document containing information which it knew or ought to reasonably have known was false or misleading in material particular contrary to section 480(1) of the Act;
- 13 offences of wilfully contravening a condition of an EA contrary to section 430(2) of the Act;
- Two offences of contravening a condition of an EA contrary to section 430(3) of the Act.

Hahn was fined \$130,000 and ordered to pay \$30,623.64 investigation costs and \$1500 legal costs.

The Court ordered that \$28,319.50 of the fine be directed to the Nathan Road Wetland revegetation program by way of a public benefit order.

Hahn's executive officer pleaded guilty to 14 offences of failing to ensure that Hahn complied with the Act, including in relation to wilfully causing serious environmental harm and wilfully contravening EA conditions. The executive officer was fined \$40,000.

In sentencing the defendants, whilst acknowledging the timely pleas of guilty and the defendants' cooperation with the department's investigation, the Court accepted that both defendants had previously been convicted for offences against the Act. The Court heard that their conduct was aggravated by the serious nature of the offending, including the extent of the non-compliances and the release of contaminants into the wetlands which had serious environmental consequences.

The Court found that the defendants had breached the trust of the department and the community over an extended period of time stating "that an environmental authority is a conditional licence to carry out environmentally relevant activities and, in exchange for the privilege associated with the authority, the community through the department and the legislative regime expects strict compliance with the authority and condign punishments for non-compliance with the authority".

March 2018

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