

Prosecution Bulletin no. 17/2015

Summary

- A quarry company has pleaded guilty to two offences under the *Environmental Protection Act 1994* (the 'Act') and has been fined \$120,000 by the Brisbane Magistrates Court.
- The sentence was delivered in the Brisbane Magistrates Court on 18 December 2015 by Magistrate Kluck.
- The company pleaded guilty to one offence against section 426(1) of the Act for operating a quarry without an environmental authority, and one offence under section 480(1) of the Act for providing information to the Department that was false or misleading in a material particular.
- The defendant company was ordered to pay legal and investigations costs totalling \$2,691.25. No convictions were recorded.

Facts

In May 2013 the defendant company engaged another company to operate a sand and hard rock quarry at Tingun near Roma (the 'site'). The defendant company had applied for and obtained a standard environmental authority for the environmentally relevant activities of extraction and screening below 100,000 tonnes per annum at the site.

However, the standard environmental authority issued by the Department for the quarry was not effective until the defendant company applied for and obtained a development approval issued by the local government under the *Sustainable Planning Act 2009*.

In late November 2013, the defendant company applied for another standard environmental authority for extraction and screening at the site. In this application, the purported chief executive officer of the company stated that a development approval was not applicable to the activities. As a consequence of this false declaration, the application was processed by the Department and a further standard environmental authority was issued to the defendant company in early 2014. The defendant company was not entitled to a further standard environmental authority, and in March 2014 its second

standard authority was cancelled by the Department and an investigation was launched into the quarrying activities on the site.

The Department's investigation found that the site had operated as a sand and rock quarry between 3 May 2013 and 22 October 2014 without an effective environmental authority (due to the lack of development approval for the site).

Outcome

On 18 December 2015, the company pleaded guilty to the charges, and the sentence hearing was heard by Magistrate Kluck in the Brisbane Magistrates Court.

The Court imposed fines of \$60,000 for each offence on the company, with a total fine amount of \$120,000. It further ordered the company to pay the Department's legal costs of \$1,500 and investigations costs of \$1,191.25. No convictions were recorded.

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

- The early pleas of guilty to the charges;
- The defendant company had no prior convictions;
- The defendant company did not deliberately mislead the Department, although it ought reasonably have known the information it provided in its application form was false or misleading in a material particular;
- Another company was undertaking the activity on behalf of the defendant company; and
- There was no evidence of a commercial benefit to the defendant company.

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