

Prosecution Bulletin no. 9/2014

Summary

- The former owner of a Southern Downs tourist park has been fined \$12,000 and ordered to pay legal and investigation costs of \$6372 for providing false information to the Department of Environment and Heritage Protection (the department).
- The sentence was delivered in the Toowoomba Magistrates Court on 13 June 2014 by Magistrate Schemioneck.
- The former owner had been charged with 1 offence against section 480(1) of the *Environmental Protection Act 1994*.

Facts

Operating sewage treatment works that have a total daily peak design capacity of at least 21 equivalent persons is an activity that is regulated by the department.

Environmentally relevant activities are regulated due to the risk that contaminants will or may be released into the environment when the activity is carried out, and the risk that the release will or may cause environmental harm.

The owner of the tourist park installed a sewage treatment plant in late 2001, which had a maximum daily peak design capacity to treat the waste of approximately 20 to 25 equivalent persons. The model of plant installed was a Nature Flow Mark 2.

At the time, the owner was the holder of a development permit and a licence to carry out an environmentally relevant activity allowing the tourist park to operate a sewage treatment plant of 21 up to 100 equivalent persons. That development permit and licence were issued based on representations made by the owner in the development application, and the approval was conditional on a plant being established to effectively treat and dispose of all waste water produced in accommodating no more than 99 equivalent persons.

In early 2012, the owner provided statutory declarations to an authorised person of the department which falsely

declared that the sewage treatment plant installed was a WDS COM model which had a flow rate of 10,000 litres per day, meaning that the plant had the capacity to treat the waste of up to 100 equivalent persons. The tourist park was sold later that year.

The former owner of the tourist park was charged with one count of giving an authorised person a document or documents containing information which the person knew, or ought reasonably to know, is false or misleading in a material particular, contrary to section 480(1) of the *Environmental Protection Act 1994*.

Outcome

On 13 June 2014, the former owner pleaded guilty to the charge before the Toowoomba Magistrates Court and was fined \$12,000. The court also ordered the payment of investigation costs of \$4,872 and legal costs of \$1,500. A conviction was not recorded.

Magistrate Schemioneck found that the former owner provided the department with documents containing information which he knew was false, and that his motive and dishonesty in relation to providing that false information were aggravating factors of a serious offence.

The early plea of guilty and the fact that there was only the potential for environmental harm rather than actual harm caused by the former owner were mitigating factors taken into account by the court.

June 2014

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