

'Gross negligence': Company cleared 'sacred' Indigenous land

By Stuart Layt
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A construction company has been forced to pay more than \$430,000 for failing to protect Indigenous artefacts on its central Queensland quarry site, in what's been described by a judge as "gross negligence."

The Emerald Magistrates Court found Ostwald Construction Materials Pty Ltd cleared large areas of land on the Bottletree Quarry site between 2013 and 2016.

In the process the company cut down a number of Gumbi Gumbi trees which are sacred to the local Karingbal people, as well as unearthing and displacing multiple Indigenous artefacts.



The Karingbal people of central Queensland have had their claim their sacred land was desecrated upheld in court.

The company used bulldozers on the site to move nearly a foot of topsoil off the ground and pile it up into earthen mound walls around the site's perimeter.

Experts for both the traditional owners and the Ostwalds told the court there were at least 22 Indigenous artefacts which were moved during that process, and possibly more than 50.

They gave evidence that a visual inspection of the walls identified dozens of artefacts, including stone axes and tools, visible on the surface of the earthworks.

In her judgment handed down in November 2018 Magistrate Catherine Benson acknowledged Ostwald Construction Materials had admitted to fault in the case, but also found the company had dragged its feet in responding to the issue.

“The Defendant has not carried out rectification work, does not have a specific plan for such in place, and does not have a Cultural Heritage Management Plan, despite some attempts to have one prepared,” Judge Benson said.

“The Defendant did not report any issues and only stopped work when the damage was discovered and reported by the Karingbal people.

“Its behaviour amounts to gross negligence on its part.”

She found the company had caused “deep emotional harm” to the Karingbal people due to the “desecration” of the site.

The company was fined \$188,000, and ordered to pay \$250,000 to the Department of Aboriginal and Torres Strait Islander Partnership towards the cost of repairing or restoring the Aboriginal Cultural heritage of the site.

It was also ordered to pay the legal costs of the complainants.

“While it is accepted that it is impossible to completely fix the damage that has been caused, and that there is not a need to repair the site for scientific or archaeological purposes, there is a need to repair the harm that has been done to the Karingbal people,” Judge Benson said.

Ostwald Construction Materials Pty Ltd is a subsidiary of construction company Ostwald Bros, which went into voluntary administration in 2017, forcing it to abandon a contract to work on the Toowoomba second range crossing and a Pacific Motorway project in New South Wales.

It owes creditors more than \$40 million dollars, leaving it unclear whether it will be able to pay the fine imposed by the court in the land-clearing case.