

0746621614

FAX MESSAGE



Queensland Government

Department of Justice and Attorney-General

DATE:	22 January 2007	NO. PAGES (Incl. cover):	3
ATTENTION:	M. Griffin	FAX NO:	07
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FROM:	Magistrate at	FAX NO:	07 4662 1614
	Dalby	PHONE NO:	07 4662 3322
SUBJECT:	Dalby		

MESSAGE: SIMPSON

Decision as to costs
follows.

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MAGISTRATES COURT OF QUEENSLANDREGISTRY: DALBY
NUMBER: MAG-492/05

COMPLAINANT: PETER ROBERT WITHEYMAN

DEFENDANT: HARVEY SCOTT SIMPSON

DECISION - COSTS

The Defendant has been found not guilty of all three charges set out in the Complaint. I am satisfied that an order in the Defendant's favour should be made in respect of costs.

I am satisfied this prosecution was a complicated one, involving difficult legislation, scientific evidence, and inadequate disclosure by the prosecution prior to the trial. The trial was lengthy. I am satisfied that Mr Simpson has actually been put to significant expense in defending the proceedings. I accept there was a large amount of preparation required.

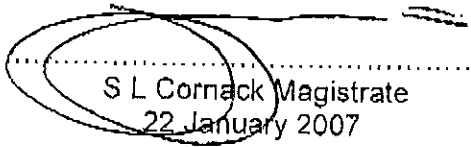
I am not satisfied the proceedings were not commenced in good faith. I am satisfied that the investigations by the prosecuting department were inadequate so far as the evidence of the on site inspection was concerned. I am satisfied that the failure by the prosecuting department to adequately disclose available information adversely affected the defendant's ability to properly defend the matter.

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I am satisfied that that three times the statutory amount ordinarily granted should be allowed for the first and second day of the trial. I will also allow three days of refreshers at double the ordinary amount. This will cover a day to travel to and from Dalby, the day of final submissions and the day for the delivery of the decision. I will also allow seven amounts of \$250.00 to cover each of the mention dates prior to trial.

So far as outlays are concerned, I allow \$200.00 for photocopying, \$400.00 for Freedom of Information Charges, \$608.80 for accommodation in Dalby for lawyers, \$1,235.00 for the cost of the transcript, \$250.00 travel expenses to Dalby and return for lawyers, and \$300.00 for title and map searches.

I therefore order that the Complainant pay the costs of the Defendant in the amount of \$15,993.80.



S L Cornack Magistrate
22 January 2007