

## Prosecution Bulletin no. 8/2016

### Summary

- On 8 November 2016, a Loganholme company was convicted and fined \$63,000 for two offences arising from the unlawful transport of 40,000 tyres in March 2015.
- The company was also ordered to pay legal costs of \$1,500 and investigation costs of \$1,390. No conviction was recorded.
- The sentence was delivered in the Richlands Magistrates Court.

### Facts

The *Environmental Protection Act 1994* provides an environmental licensing regime for high-risk environmentally relevant activities such as waste transport. Tyres are regulated waste and the Loganholme company held an environmental authority (EA) to transport tyres.

It was a condition of the company's EA that tyres must not be transported and deposited at a site that was not lawfully able to receive them.

On 7, 8 and 9 March 2015, the company transported 40,000 tyres to a site at Wacol that had not been issued with a development permit by the local council. In doing so, the company knew that it would contravene its EA.

The company also failed to provide a waste tracking certificate to the department containing the prescribed information about the waste transport.

The company was charged with one offence of wilfully contravening a condition of its EA (s.430(2) *Environmental Protection Act 1994*) and one offence of failing to give the department prescribed information about the waste transport as the generator of the waste (s.81I(2) *Environmental Protection Regulation 2008*).

### Outcome

On 8 November 2016, the company pleaded guilty to the offences before the Richlands Magistrates Court and were fined \$60,000 for wilfully breaching its EA and \$3,000 for failing to provide a waste tracking certificate to the department. The company was also ordered to pay both legal and investigation costs in the amounts of \$1,500 and \$1,035.75 respectively.

In sentencing the company, the Court noted that wilfully breaching an EA is a serious offence, taking into account that the breach related to the transport of 40,000 tyres. It was accepted that end-of-life tyres can be a source of health and environmental concern. Tyre stockpiles provide breeding habitats for mosquitos and vermin, and can release toxic gases if caught on fire. The Court also stated that waste management is a high-risk activity that requires strict adherence to record-keeping systems.

Whilst there was no actual harm caused on this occasion, the Court found that the company was responsible for ensuring that it complied with all of its obligations. The Court also considered the commercial motivation of the company, the fact that the company had undermined the statutory regime which is designed to protect the environment and breached the trust of the department in issuing the company with the EA.

This prosecution serves as an important reminder that the Department takes the protection of the environment seriously, and all holders of an EA doing business in Queensland must abide by strict environmental obligations.

### November 2016

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