

Prosecution Bulletin no. 6/2017

Summary

- Wayne Wharton has been convicted of 65 offences under the *Environmental Protection Act 1994* (the EP Act) and has been fined \$25,000, and ordered to pay legal costs of \$1,500 and investigation costs of \$1,342.55.
- The sentence was delivered in the Ipswich Magistrates Court on 11 September 2017.
- The offences arose when Mr Wharton (or others working for him) transported asbestos to New Chum and Swanbank between October 2015 and August 2016 without an environmental authority (EA).
- Convictions were recorded against Wharton for all 65 offences.

Facts

Between October 2015 and August 2016, Wharton (or others working for him) transported 65 loads of asbestos to New Chum and Swanbank. In total, over 150 tonnes of asbestos were transported.

Wharton did not hold, nor was he acting under an EA when the asbestos was transported. Wharton's EA had been suspended as he failed to pay annual fees for the environmentally relevant activity (ERA).

As a result, Wharton was charged with 65 offences of carrying out an ERA without EA contrary to section 426(1) of the EP Act.

Outcome

On 11 September 2017, Wharton pleaded guilty to the offences before the Ipswich Magistrates Court and was fined \$25,000. He was also ordered to pay both legal and investigation costs in the amounts of \$1,500 and \$1,342.55 respectively.

In sentencing, the Court took into account the early pleas of guilty, the maximum penalties available for each offence and that the law was designed to protect the environment, the community and operators. The Court noted that the law attracts, and offenders should expect,

significant penalties. The Court accepted that the transport of asbestos is regulated because of the serious risks that it poses to the environment and human health, however no actual harm had been caused on these occasions.

The Court also accepted that Wharton had been warned previously that he could not transport asbestos while his EA was suspended, yet despite those warnings, he continued to do so.

The Court considered Wharton's circumstances as to why there was no EA in place, his personal and financial circumstances and that the sentence imposed was just and appropriate for the offending.

This prosecution serves as an important reminder that the Department takes the protection of the environment seriously, and individuals doing business in Queensland must comply with environmental laws, including the payment of their annual fees.

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