

## Prosecution Bulletin no. 4/2017

### Summary

- On 15 May 2017, an individual was fined \$20,000 by the Ipswich Magistrates Court for three offences arising from his involvement in a commercial business operated at a site at Redbank in Queensland.
- The Court ordered that \$5,000 of the fine be paid towards the Ipswich City Council's 'Beautiful Waterways' Program.
- The individual was also ordered to pay legal costs of \$1,500 and investigation costs of \$2,120.65. No conviction was recorded.

### Facts

On 27 October 2016, high conductivity readings, consistent with high levels of brine (or water with a high concentration of salt) were recorded by Queensland Urban Utilities at a sewage pump station at the Goodna Sewage Treatment Plant.

The pathway for the high conductivity readings was traced back through the sewer lines to an access point just outside the individual's site at Redbank (the site). The site is located near to a local waterway and within close proximity of the Brisbane River.

The site was inspected and the individual was observed to be discharging waste water from a 160,000 litre tank to a stormwater drain.

Further inspections revealed that the individual was carrying out the environmentally relevant activity (ERA) of recycling or reprocessing regulated waste at the site. The waste was also stored in bulk containers which were in poor condition, and in a shed that had holes in the roof and was unbunded.

The waste water that was discharged from the tank and stored onsite was scientifically analysed by the Department of Environment and Heritage Protection (EHP) and found to contain brine, arsenic, hydrochloric acid, tin and had low levels of pH, meaning the waste water was regulated waste and a prescribed water

contaminant under the *Environmental Protection Act 1994* (the EP Act).

The individual did not hold an environmental authority (EA) for the ERA, and while he had the local council's approval to use the land, he did not hold the appropriate approval under the EP Act to carry out the ERA on the land. He was also not authorised to discharge the waste water to the stormwater drain, or store in the waste in the manner in which it was stored.

The individual was charged with:

- carrying out an ERA without EA contrary to section 426(1) of the EP Act;
- unlawfully and wilfully depositing a prescribed water contaminant in stormwater drainage contrary to section 440ZG (a) (ii) of the EP Act; and
- unlawfully storing a prescribed water contaminant where it could move into waters or stormwater drainage contrary to section 440ZG (a) (iii) of the EP Act.

### Outcome

On 15 May 2017, the individual pleaded guilty to the offences before the Ipswich Magistrates Court and was fined \$20,000 for the three offences. The individual was also ordered to pay both legal and investigation costs in the amounts of \$1,500 and \$2,120.65 respectively.

The Court further ordered that \$5,000 of the fine be paid to the Ipswich City Council's Beautiful Waterways Program by way of a public benefit order. These types of orders are made under the EP Act and are intended to restore or enhance the environment in a public place or for the public benefit. The Beautiful Waterways Program aims to beautify major thoroughfares and streetscapes, and create attractive parks and pathways and improve waterways in the Ipswich region.

In sentencing, the Court took into account the early pleas of guilty, the maximum penalties available for each offence and the legislative regime, and whilst noting the

levels of brine that were found in a nearby creek were far higher than acceptable, found that there was no evidence of environmental harm. The Court also accepted that the individual had benefited financially by not paying annual fees for the ERA and not paying for the waste to be lawfully removed from the site.

The Court also noted that this matter was one where there was a serious risk of environmental harm, finding that the individual was well aware of the poor state of some aspects of the site's facilities and that the discharge from the tank was wilful.

The Court considered the circumstances as to why there was no EA in place; including the individual's medical condition at the time of the offences and that his failure to have an EA was not a wilful omission.

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

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