

Polluters to be stripped of profits in environmental crime crackdown

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NSW Police last month located an illegal dump of asbestos-contaminated waste from a Sydney construction site at a private property on the state's central coast. Polluters will be stripped of any illegal profits they pocket by breaching state laws, as NSW becomes the first state to implement a regime for recovering the proceeds of environmental crime.

The NSW Environment Protection Authority, the state's environmental watchdog, will now be able to apply to NSW courts for monetary orders to recover illegal profits from polluters when they are sentenced.

The new framework, which is effective immediately through regulation, will potentially see millions of dollars returned to the public purse.

NSW Environment Minister Gabrielle Upton, who will announce the policy on Friday, said she expected other environmental regulators across Australia to follow NSW's lead.

"Polluters should not be allowed to profit from their environmental offences," Ms Upton said.

"In addition to any fines, the framework will help determine monetary benefits obtained through illegal profits and the avoidance of operating and capital expenditure, including license and waste disposal fees."

Environmental crime has proven particularly lucrative for businesses, which can save hundreds of thousands of dollars through non-compliance.

In examples provided by the regulator, a chemical manufacturing company avoided spending about \$220,000 in capital costs to install barriers around faulty storage tanks, while a cement manufacturer avoided \$60,000 in operational costs by not maintaining an air filtration unit.

The state's corruption watchdog last year acknowledged the existence of a black market for asbestos dumping, which aimed to avoid tens of thousands of dollars in legal disposal fees.

Ms Upton said the EPA had developed a "clear and transparent method for calculating the amount of the illegal profit that offenders should pay back".

Under the framework, proceeds of crime are calculated by determining the financial advantage that

an offender gains from avoiding or delaying spending money on complying with environmental legislation.

This approach would, for example, allow the regulator to apply to the courts to recover \$670,000 from a quarry which banked an estimated \$650,000 in illegal profits from additional sales, and avoided \$20,000 in licencing fees.