



Legislative Assembly

Protection Of The Environment Operations Amendment (Confiscation And Forfeiture Of Vehicles) Bill

18/10/2001

Hansard

Extract

Second Reading

Ms SEATON (Southern Highlands) [10.04 a.m.]: I move:

That this bill be now read a second time.

Dump a load of rubbish for a quick buck and lose your keys and vehicle. That is the simple message this bill intends to send to all illegal dumpers who spoil our bushland. One of the most serious environmental blights on our natural landscape and bushland is dumped rubbish—the work of illegal fly-by-nighters who want to make money by taking a load of waste and dumping it anywhere but in a licensed tip. Sadly, these blights are evident across New South Wales, and I cannot think of a single area I have visited that is not affected in some way. In recent months I have visited some of the illegal dump sites favoured by these vandals. Bushland near Barden Ridge in Sutherland has been a magnet for this rubbish. I have seen literally acres of the site, which adjoins the licensed landfill. It has mountains of carpet underlay, more than three dozen burnt-out car wrecks, piles of domestic waste, piles of tiles and building waste, material that looks suspiciously like asbestos, televisions, car parts and paint tins.

Trails have been made by large vehicles to numerous parts of this bushland area, which is in a creek catchment, where eventually all the chemical leachate from this trash will make its way to poison the fish, insect, reptile and bird life. The dumped rubbish smothers native plants and will probably permanently affect the possibility of regrowth, even after clean-up. Since my first visit there, council has made some major efforts to prevent car access off the main road and has placed large sandstone boulders along the roadside. Despite that, these vandals have found other ways in and are still plying their poisonous trade. There is no doubt in my mind that the nature of this waste strongly suggests that it has a commercial or industrial source, and it is highly likely that the drivers of the vehicles that brought it there received a fee for doing so.

I visited Crown land along the Bargo River in my electorate where again truck loads of waste, which comprises industrial materials, building materials, car parts and packaging, have been driven into pristine bushland and dumped. The tragedy is that in this area there are some very rare species of the persoonia plant, which many local people want protected. They want to see this area become part of the Bargo River national park proposal. I was shown two examples of plants that have been damaged by trucks in the dumping area. The persoonia bargoensis plant is rare and deserves protection.

Wingecarribee council area has not escaped the blight. Rubbish has been dumped in areas near Berrima Weir on Crown land. Roadsides in our dramatic escarpment roadways near national parks, bushland and State forests have been used by these dumpers as tip sites. The damage caused to the environment by this waste is enormous. I have already mentioned the impact of leachates on soil and waterways. This leachate can remain in the environment for a long time as plastics and other dumped materials slowly degrade and release their components. Loose asbestos is a hazard; when it gets wet by rain and then dries on a regular basis it blows around in the atmosphere. Apart from anything, this rubbish looks awful.

As the Minister for the Environment has said in this place, rubbish attracts other rubbish. Once someone sees a pile of waste there is a temptation to think that a little bit more will not make much difference, so the cancer spreads. Anyone who drove along Heathcote Road before its recent major clean-up will know that it was a prime example of that. Dumped waste also attracts and harbours vermin like foxes, cats, rabbits and rats, which compete with native animals in our bushland, and the rubbish provides them with a place in which to breed. In these uncertain times dumped waste is also a security risk, and I shall say more on that later.

I have three people in particular to acknowledge in the development of this bill. The first is Mr Warren Hart, a resident of Barden Ridge, who emailed me some months ago to draw attention to the problem in his area. He met me at the Sutherland site on my first visit. I was also joined there by Councillor Kevin Schreiber of Sutherland council and the honourable member for Vacluse, who has been working on trying to solve dumping issues in his electorate in partnership with councils and community groups, with a good deal of success. We saw the devastation of the Barden Ridge site.

The honourable member for Vacluse told us about the gains made in the Bondi area regarding dumped cars. Rather than remaining dumped in Bondi streets, abandoned cars were handed over to charities and sold, the

proceeds going to important charities, such as CanTeen. The honourable member for Vacluse suggested that confiscating vehicles used by dumpers might be a deterrent in the same way the anti-hooning legislation has been successful in stopping car hooligans. The thought that they might lose their vehicle has been a great deterrent to people who otherwise would have performed dangerous activities in stolen or borrowed cars. That legislation was also an initiative of the honourable member for Vacluse. While looking at the Barden Ridge site, these ideas seemed worthwhile.

Councillor Schreiber outlined the costs that local councils would incur—direct costs to ratepayers—of commercial dumping of the scale at Barden Ridge. He estimated that it would take approximately four council officers up to two months of solid work to clear the rubbish and take it to a licensed site. That does not take into account the additional costs for the use of council vehicles, equipment and the payment of dumping fees at licensed sites. These costs are additional to the time robbed from other important and constructive work for ratepayers that these four council officers would be otherwise doing. The costs are enormous to the community, individual ratepayers and to families. Ratepayers bear the costs that could otherwise go to positive projects in the community. It has been put to me that the opening hours of the Lucas Heights waste facility could be extended. At present the closing time on Sunday afternoon is relatively early—I believe either 4 p.m. or 5 p.m. This might mean, particularly during daylight saving periods, that after a Sunday afternoon backyard clean-up some people arriving at the Lucas Heights landfill site and finding it closed might in frustration take the lazy way out and take their boot load next door into the bushland. Changing the opening hours at the waste facility is an issue for the council and its local community, but more convenient opening hours might make a difference. I am sure that councillors and community members will want to look into that.

The Coalition acknowledges the reforms in the recent Protection of the Environment Operations Act to redraw litter offences and increase penalties. The Coalition supported that legislation, moved amendments to toughen up categories of fines for aggravated offences, and was pleased to have Government support for those amendments. I listened with interest to the Minister's announcement about video camera surveillance of dumping sites. I hope this legislation also will make a difference, although my concern is that the likely outcome for someone caught littering will be the imposition of a fine. The people in the cases I have described would consider a fine to be an acceptable risk, an acceptable cost of their grubby business to take money from witting or unwitting clients for the disposal of waste, only to have it end up in our bushland.

The intention of this bill is to provide a meaningful deterrent to that practice. I would be delighted if its effect resulted in a dramatic reduction in this sort of offence and consequently no confiscation of vehicles. We need to get to the core of the problem—a good deal of this rubbish is dumped for commercial purposes, for fee or reward. The bill makes this distinction clear. Dumping rubbish is a money-making enterprise for the fly-by-nighters who can only continue this practice while they have their vehicle. For these people a fine of several hundred dollars—or even thousands of dollars, as imposed recently in places like the Shoalhaven area—is likely to occur only once a year in all likelihood, if at all. These people consider the risk of a fine acceptable and a cost they are prepared to bear. When compared to the cost involved in taking loads to landfill, a fine is generally the cheaper option.

The solution to deter these people is to hit them with the threat of losing their vehicle. If they have no vehicle, they cannot dump rubbish. The vehicle could be worth \$30,000. Though there are options in this legislation through which their vehicle may be returned, they face the prospect of not having their vehicle for a period of time, and so stopping or curtailing their illegal activities. What seems to be happening is that people advertise their services as legitimate contractors, or they are known by word of mouth as rubbish contractors who undertake on a commercial basis to remove waste from building sites, businesses, homes or individuals. Clients genuinely believe the load is going to a licensed site not knowing that the fee they pay is really a 100 per cent profit for the illegal dumper.

Unethical businesspeople can obtain other rewards by avoiding paying the landfill fee. This illegal dumping is a major problem for the hundreds of thousands of honest, legitimate waste contractors who are properly licensed and who observe the law and pay all appropriate fees at licensed landfill sites. They are let down by a system that is soft on fly-by-nighters and illegal dumpers. I have mentioned some of the major dumping grounds that I have seen, but I shall mention a couple of others. Recently I have been meeting with a group of people in my electorate, the Balmoral Village Association. Mr Larry Wilson, the president, raised with me the issue of illegal dumping in local bushland around the Balmoral area. We are blessed with many national parks and State recreation areas. Unfortunately, because access to many of these is by remote roads, they are attractive to those who want to dump commercial or even private waste.

Unscrupulous contractors and private individuals dump construction waste and other materials. The likelihood is remote of having a designated person in Balmoral with powers to issue infringement notices. Therefore, to achieve convictions against illegal dumpers, it is important to help local residents become educated about the sort of information necessary to note and communicate to authorities. I wrote to the Minister for the Environment on behalf of the Balmoral Village Association asking whether "dob in a dumper" types of signs could be displayed locally to dissuade dumpers, and to achieve better community reaction to those dumpers, people need to be aware that they can take down vehicle registration numbers and that sort of information. At a Federation tree planting ceremony at Balmoral, Mr Wilson said that he was pleased to hear about the legislation that I planned to introduce. It could be another valuable tool if local people would take down information about people they see illegally dumping, which may lead to the confiscation of such a vehicle.

Councils and residents in the Shoalhaven, Goulburn, Central Coast, northern suburbs, northern beaches and Illawarra areas, virtually anywhere with bushland close to urban areas, are at risk. Built-up urban areas are also at

risk where large-scale furniture and car dumping is common. Recently I visited a street in Bondi with Peter King, the Federal Liberal candidate for Wentworth. He wanted to show me the scale of commercial dumping that local residents put up with in the Bondi area. We found a pile of furniture in a local street that was enough to furnish a small flat. Not far away we found no less than four dumped cars in a local street. Mr King is convinced that this legislation will be a useful tool for local councils to crack down on and deter commercial illegal dumping of furniture and cars. This legislation has an application both in rural and urban areas.

The bill contains the following features. Its object is to confiscate any vehicle used to dump waste illegally in bushland or other places for commercial gain. The bill provides for the confiscation of a vehicle or trailer used in the act of dumping material in an unlicensed disposal place for financial gain, fee or reward. Confiscation and forfeiture will occur if an authorised officer reasonably believes the vehicle has been used in connection with the offence and the offence was in connection with business, fee or reward. Alternatively, confiscation and forfeiture could occur by court order as a result of prosecution of the offender. The authorised officers of regulatory authorities can include the Environment Protection Authority [EPA], council rangers, council officers, and officers of Sydney Water and the National Parks and Wildlife Service. So it includes a range of State agencies with powers delegated to them by the EPA. It picks up the recent amendments to the Protection of the Environment Operations Act [POEO] in which the issuing of infringement notices was extended to a range of government agency officers.

The Roads and Traffic Authority [RTA] is required to supply vehicle ownership data to these officers. The vehicle must be returned to the owner or user if court action has not been initiated within 28 days. Confiscated vehicles can be sold or returned under conditions that are satisfactory to the court or the appropriate regulatory authority. For example, it might be determined that the offender must clean up what was dumped and must undertake all necessary environmental remediation. When that is done, it might well be that the confiscating authority believes that the vehicle can be returned. Alternatively, the vehicle could be sold and the proceeds of sale retained to cover the cost of the clean-up or to cover the costs of other appropriate activities undertaken by the agency.

If a person appeals against the seizure, the person may have the vehicle returned on payment of security until the court determines the matter. Non-commercial dumpers would not be subject to vehicle confiscation under this bill. That avoids a situation in which a householder has dumped material after a weekend clean-up and the vehicle has been confiscated, which perhaps has caused disadvantage to another family member or friend who is left without a car. While it is equally wrong to dump illegally for commercial or non-commercial purposes, the bill is not intended to be unreasonably heavy handed or to enter a minefield of unintended impact. The focus of the bill remains very strongly on people who undertake illegal dumping for commercial gain, for fee or reward. The bill focuses on them because I believe it is that type of dumping that is the major problem confronting our bushland areas.

In developing the bill—for which I thank Peter Barrett and Nigel Hill of Parliamentary Counsel—Parliamentary Counsel recommended that to achieve its objects the bill should be modelled on the Fisheries Management Act, division 4, part 9, which is the most workable mechanism in this circumstance. Since I announced the idea of this bill, I have been encouraged by the enormous support for it. There is a genuine need, particularly among council officers and staff, to have a better and more practical range of tools available. No council areas are free from this blight. I have had contact with councillors from the Central Coast such as Brenton Pavier from Wyong Shire Council; Councillor Andrew Ho from the Strathfield Municipal Council, who has publicly called on the Government to support the bill; Megan Lavender at Canada Bay council; Kevin Schreiber at Sutherland Shire Council; and councillors and officers of the Wollondilly Shire Council.

As recently as this morning I was speaking to Councillor Paul Stephenson, the Mayor of Mulwaree Shire Council. He told me about the costs that the Mulwaree shire has had to meet in recent times associated with clearing up dumped rubbish in the Tallong Park and the Marulan areas, which is yet another example of the dumping blight. The General Manager of Wingecarribee Shire Council wrote to me and stated:

With reference to your Private Member's Bill, Council is certainly supportive of any measures which will assist in decreasing illegal dumping in the bushland.

I thank David McGowan for his expression of support. His statement is a typical reaction to this bill. Councillors know what a tough problem illegal dumping is. They know that they cannot solve it by imposing fines alone, and they welcome another weapon in the armoury, which they can choose to use if it helps them. I have certainly received encouragement from key environment groups in a similar vein because they regard illegal dumping as a terrible blight, particularly in our national parks and reserves. A letter I received from Mr Peter Griffiths who lives in my electorate also shows the type of reaction to the bill from residents in affected areas. Mr Griffiths lives in Bowral and states:

... only this morning I heard you on the news addressing the problem about irresponsible rubbish dumping.

I agree with you and congratulate you in your efforts to have illegal dumpers vehicle confiscated. It seems to be a step in the right direction, as I have and no doubt you have seen the result of someone dumping rubbish in parking areas on the Freeway between the Highlands and Campbelltown. It does seem to be out of control.

They do indeed need stopping and I have been wondering for some time how it could be done.

As a Commercial and Private Inquiry Agent, it is my belief that we only have to place a few of these people before the court, before it will have an effect on this nasty and unsavoury practice.

No doubt, it is impacting on the ecology/environment and is affecting us financially, by it having to be removed.

It never ceased to amaze me what some people will do for greed, that is, to save a dollar and take this rubbish to the tip.

Once again, thank you very much for your efforts in regards to all the matters I have mentioned and keep up your good work.

If there is anything I can do to assist in your efforts to stop this dumping of rubbish in bushland, please do not hesitate to call me as I too feel strongly about it.

Illegal dumping affects many people. When people see rubbish in bushland, they are sickened and they understand the environmental impacts. People are looking for practical solutions. The fact that so many councillors in so many parts of Sydney and regional New South Wales have expressed support for this new tool highlights how important this bill is to people. I hope the Government will support this legislation and give councils an extra tool to deal with the blight of illegal dumping. The legislation is designed to be clear, to be fair, and to target the commercially motivated fly-by-nighters who use our precious bushland as a tip.

Councils support the bill, residents support it, conservationists support it, law-abiding waste contractors support it, the Coalition supports it and I seriously hope that the Government will support it. I particularly call upon the honourable member for Menai to get behind this bill because Menai is where this bill was born. This bill will provide practical assistance to the Sutherland Shire Council in combating the blight of illegal dumping. Indeed, I call upon all members of the Government to get behind this bill because it is a chance to make a difference to what is a major incremental environmental time bomb in this State. I commend the bill.