

Response to questions from members of the Environment and Regulation Committee of the NSW Legislative Assembly, taken on notice on October 28, 2013

Question one.

In discussing whether council should be given extra powers, the question I wish to put to you is this: In the situation whereby a fire hazard is clearly demonstrated, and that is through the experience of the Fire and Rescue unit, who are the experts in assessing these conditions, would that be justifiable cause to concurrently clean up at least the exterior of the property to enable access in fire cases as well as assisting these people with a mental illness? Or would you say that there is no reason whatsoever for any external member of society to step on that property without the permission of the resident—no reason whatsoever?

There is of course a reason. But such considerations must be balanced with others--and that is not simply a matter of saying that life is more important than privacy. Life is indeed more important than privacy. But that does not mean that privacy ceases to be important.

We should distinguish again between persons with mental illness and persons who are of sound mind. It is difficult to imagine a person of sound mind who, when informed of the fact that their lives are endangered by the state of their property *and shown why* would not want to have that fixed if they could.¹ There may be problems getting them to listen. (That is not a problem unique to the area of local government.) Financial considerations may cause people to take risks, too, and where there is no risk to others, that is their choice. A different situation occurs when the condition of a property poses a danger to the lives of others.

If persons are so ill that they cannot see a threat to their lives *and an offer to help*, I would want to know who is looking after them.

Question two.

What is your thought historically—and you may need to take it on notice—about, on my understanding, councils acting in a caring, understanding and compassionate manner and quite often erring on the side of caution, for want of a better term, in their time frame for dealing with hoarders and dealing with clean-up notices? Would that be your thought, historically and generally?

CCL from time to time receives complaints about councils, and some of these are well justified. Councils vary in their readiness to fix up what we see as problems. But we do not have an extensive list of problems over hoarders. It would be unusual for such matters to be brought to us--though it has been known, and this Inquiry has stimulated some requests for assistance in dealing with a council..

The submissions to this inquiry by some of the councils do not indicate the kind of caring responses that one might hope for.

Question three.

¹ Such showing would have to be real--not just pointing to sections of an act or regulation.

Can I ask you a question about an issue we have heard about? You talked a little about council maybe chairing a committee where the council might draw together people who have expertise in the area of mental health. What do you think might be a way to coordinate this? Do you think council should be leading this? If council identifies a mental health problem, do you think they should take it to the Department of Mental Health and leave them to coordinate a response for the person involved? Could you address that for us please?

It may well be that mental health providers or authorities are the best people to deal with such cases. Rather than councils having formal committees, my thought was that if a problem is discovered, the body that does so should see to it that the relevant organisations are alerted to it, and that they know of each other's involvement. Who should take the lead may vary with the situation. What is important is that the responses are coordinated, in that each body is aware of what the others are doing, and they do not cut across each other's efforts. It is vital that councils do not handle such difficulties by themselves, unless they have the expertise, time and money to provide the necessary care.

Question four.

Some inquiry participants have argued for a reverse onus of proof in hoarding matters, to enable items and materials to be deemed to be waste unless the owner or the occupier provides evidence to the contrary. Do you have any comments on that proposal, whether you agree or disagree and why not? Proving that hoarding is being carried out and is purely waste material that should be sent to a dump. That material rests with council. There were some participants suggesting that proving the waste is for some good purpose should be put on the owner-occupier of the premises and not on council. Do you have any comment on that proposal? Someone who is collecting materials, whatever they are, would not be able to give a reason why they were collecting the materials?

History has shown that one person's trash may be another's treasure. Being able to give a reason is one thing. Proving it in a court is quite another. It is not reasonable to expect home-owners or ratepayers to have the means to prove that what others deem is rubbish is not. If councils are complaining about the costs of court action, what do you think it would be like for an individual?

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