

MANAGEMENT AND DISPOSAL OF WASTE ON PRIVATE LANDS

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The Committee Manager
Committee on Environment and Regulation
Parliament House
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Dear Sir/Madam

Inquiry into the Management and Disposal of Waste on Private Lands

In response to the inquiry on the management and disposal of waste on private lands Eurobodalla Shire Council provides you with the following advice.

a) The health and safety risks posed by inadequate management and disposal of waste, overgrowth and excess vegetation, pests, and odour;

There is significant potential that the accumulation of waste and overgrown premises creates public and environmental health and safety issues including but not restricted to the following:

- increased risk of public health concerns associated with the provision of increased habitat and food for vermin and pests;
- increased risk of mosquitoes and larvae and associated mosquito borne diseases;
- potential for odour issues which may be evident with putrescible waste;
- potential habitat for feral cats, rodents and other pests which may also create odour issues and animal welfare issues;
- access and building condition issues may be prevalent and create difficulties with access and inspections due to the waste accumulation;
- potential fire risk associated with accumulated waste, vegetation and dilapidated building sites;
- the public amenity may create ongoing and long term concerns and health issues for the surrounding and abutting neighbours;
- the health and wellbeing of the occupants of the impacted lands is often closely related to the issues identified, potentially being a causative factor but consequently having a negative impact on their ability to remedy the matter;
- the dumping of orphan and/or contaminated waste may create public and environmental health and safety issues;

- waste may also have negative environmental impacts where potential pollutants may affect the locality.

b) The effectiveness of current regulatory arrangements and powers to compel clean-ups on private land and manage derelict buildings;

The current legislative framework available for local government includes the *Local Government Act 1993* (LGA) under section 124 and under provisions of the *Protection of the Environment Operations Act 1997* (POEO) Division 3, section 144 and dependant on the associated pollution it may include land or water and other relevant sections of the POEO Act in relation to waste on private lands. For the management of derelict buildings there is a range of orders under the *Local Government Act* and the more commonly utilised orders under the *Environment Planning and Assessment Act*.

There is an increasing and growing community expectation that local issues are to be resolved by local government particularly in regional areas. Local government is increasingly responsible for public health and safety, environmental management, pollution controls, development issues, compliance and enforcement of such and are inadequately resourced.

Council's objectives are to have the waste, rubbish and materials removed from private premises in a timely manner and at minimal cost to Council so as to protect the health and safety of the community and the environment. Additionally, with regards to the management of derelict buildings, Council priorities focus on mitigating the hazards and risks to the buildings occupants or to persons or property within the neighbourhood or adjacent public places. Whilst Council always endeavours to negotiate with the property owners this does not always result in appropriate action and more formal processes may be required.

The effectiveness of the current regulatory arrangements and powers to compel clean-ups are restrictive, time consuming, costly and at times leading to an unsatisfactory outcome largely due to the reliance on the offending person or persons to act positively in response to the requests and actions taken.

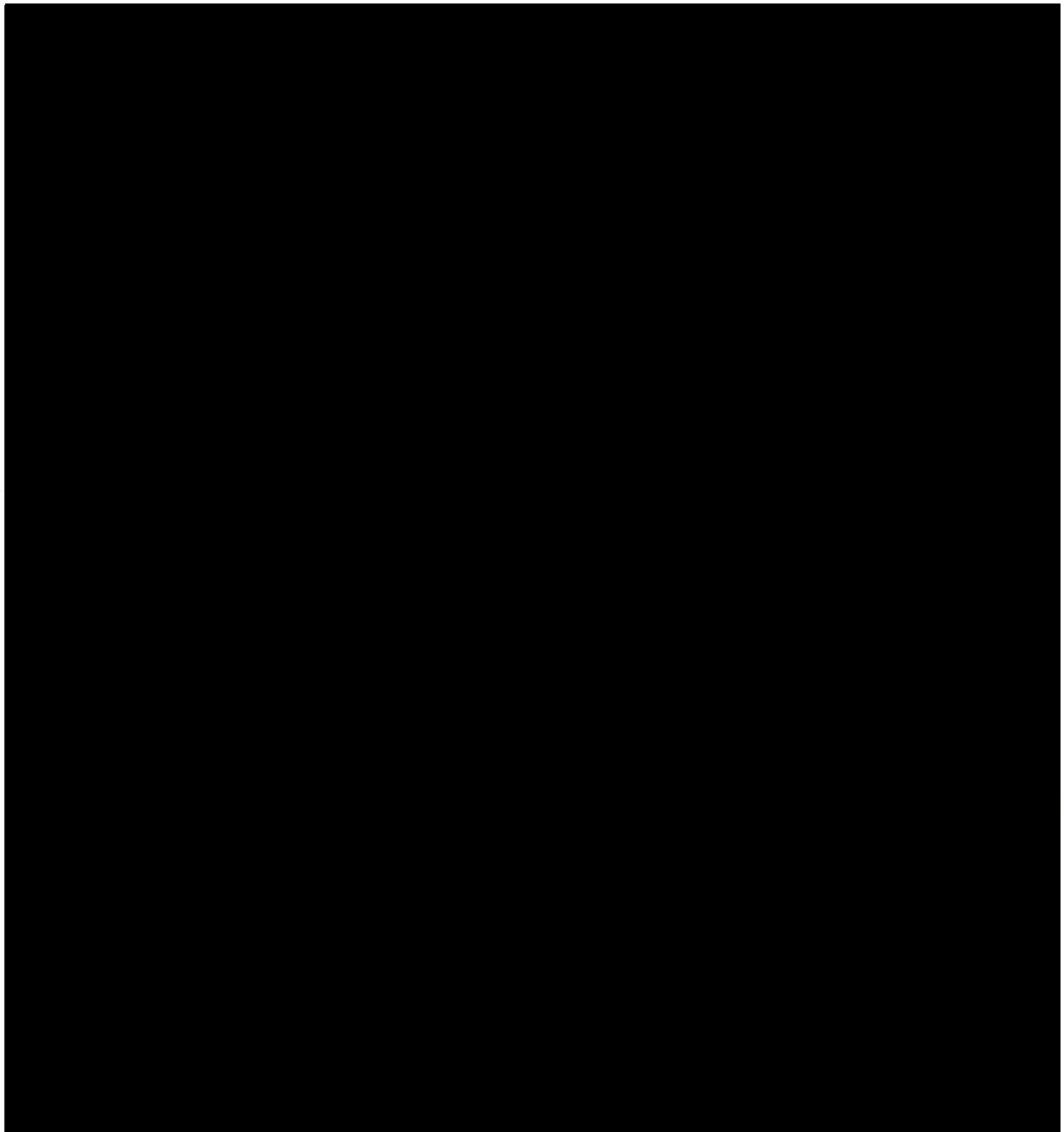
State of mind of property owners

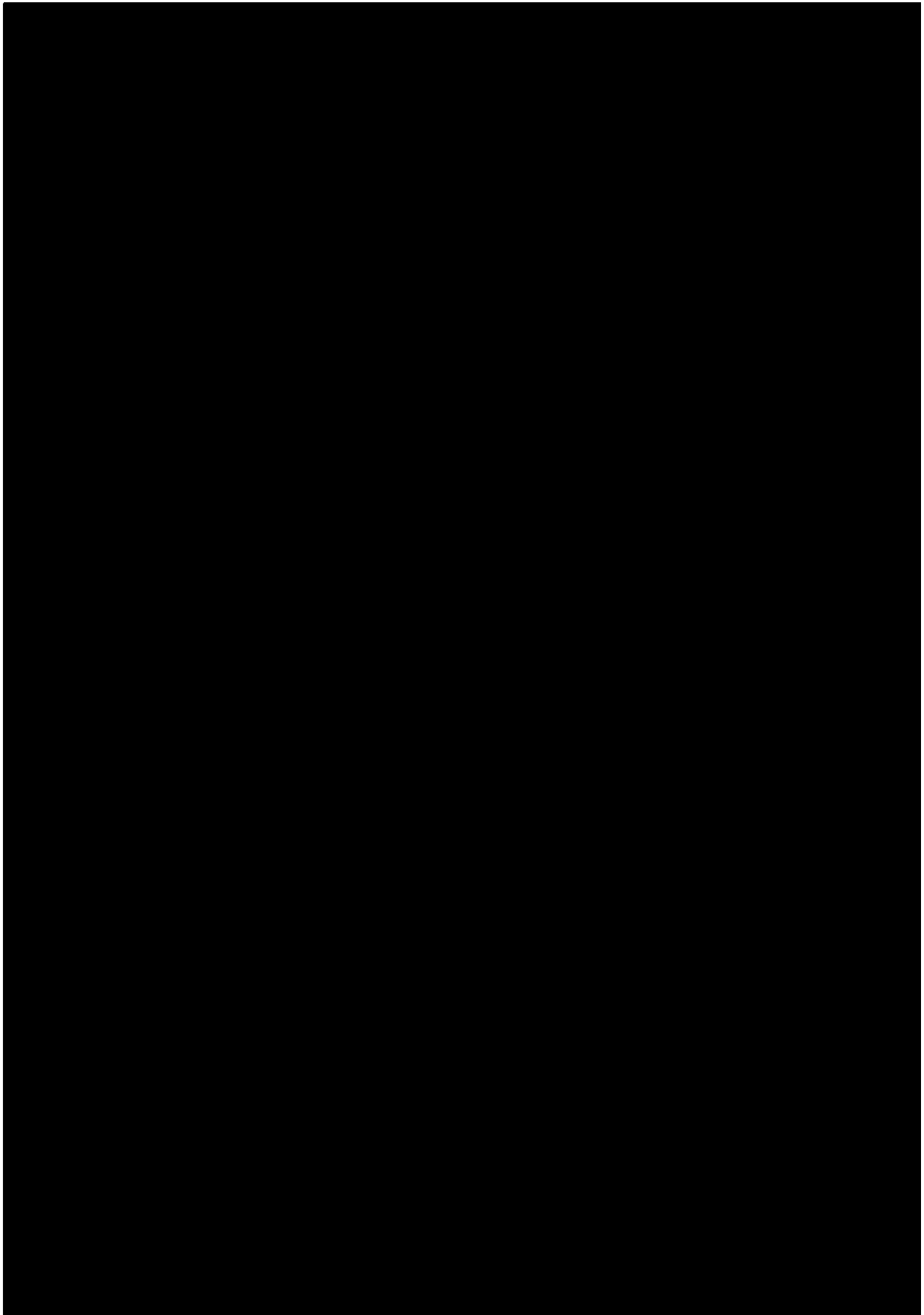
The other difficulties that councils may be faced with particularly in regard to waste accumulation are the mental health of the property owner/s. This may also require Council to obtain assistance from community services, hoarders groups and other avenues in an attempt to rectify waste issues on private lands. Many of the community organisations will only assist where the property owner/s voluntarily wishes to participate. This again means that whilst there may be mental or physical illness evident the Council is not in a position to force the property owner/s to utilise the assistance that may be offered and could ultimately resolve the issues.

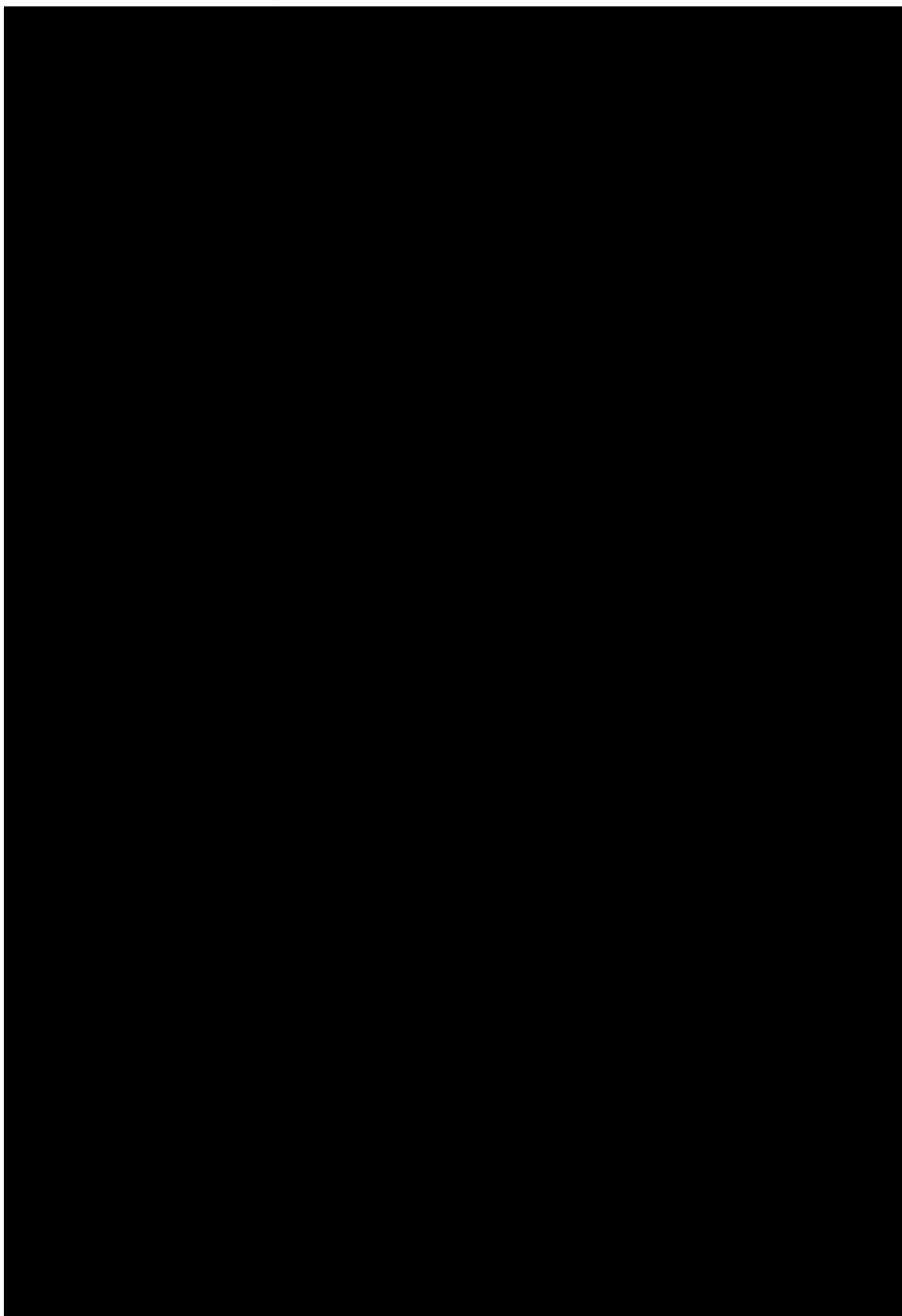
Power of entry

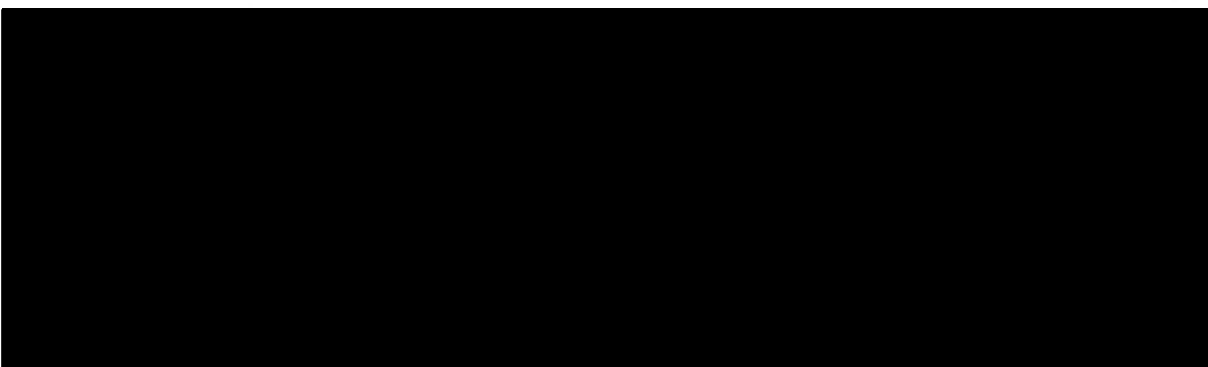
The current laws are restrictive for entry onto residential lands whereby Council is required to obtain consent from the property owner to enter or require the obtaining of a warrant. Consent may be withheld and therefore it may prove difficult to gather evidence and to rectify community complaint and concern and causes lengthy delays.

Whilst the rights of individuals are important it may be to the detriment of the broader community and timely resolution of issues and to the health and wellbeing of the occupants of the land.









c) The adequacy of inspection and enforcement procedures, including relevant sanctions and powers to recover costs;

As indicated above (b) the ability to enter residential properties may be problematic. This can then become time consuming and costly for local government.

Whilst there are mechanisms to recover the costs in all the Acts mentioned, the circumstances of waste on private lands often relate to low socio economic groups, potential for homelessness, mental and physical health issues which may all contribute to the inability to actually recover the costs. The actual costs associated with enforcement of clean-ups and legal proceedings for waste issues on private lands is generally not recovered through available fines and/or cost recovery. The Council and other agency staff time and resources utilised are often extensive and difficult to cost and recover.

d) Possible measures to improve the management of waste on private land;

- Improve the legal provisions to enable authorised officers to enter private property where reasonable grounds exist;
- Community education on responsibilities for management of waste on private lands;
- Provide assistance and support to occupants to manage and appropriately dispose of waste and avoid costly litigation;
- Improve access to community services that can assist with hoarders and rectification of waste issues on private lands;
- Investigate options for property owners with waste on private lands to mandatorily utilise available community services;
- Provide funding model/framework for clean-ups on private lands (e.g. similar to Environmental Trust Fund model for orphan waste) inclusive of transporting and disposing of waste;
- Align the fees and fines associated with the issue of Orders, Notices and Penalty Infringement Notices across the legislative Acts;

² Land and Environment Court NSW <http://caselawsearch.lawlink.nsw.gov.au/search/>

- A more prescriptive legislative framework to identify what is deemed waste to remove the subjective interpretation of waste. For example this may include a volume of material permissible on a residential lot and /or a duration material is on the site;
- More expedient framework to action and recover costs;
- Consider legislative changes to the *Local Government Act* and *Environmental Planning & Assessment Act* to enable the cost recovery to be a charge against the land, similar to the provisions under Section 105 to 107 of the *Protection of the Environment Operations Act 1997*.

e) The extent of illegal dumping and the impact on local government authorities of requirements to remove dumped waste;

Illegal dumping across all tenure is an issue for local government. Where waste has been disposed of on private lands the subject waste is the responsibility of the land owner. Hence any clean-up is the private property owner's responsibility.

Where illegal dumping has occurred on private premises Council may assist the property owner with the clean-up or in attempting to locate the offender/s. There is no legal requirement for Council to do so.

If you require further information on this matter please contact the Divisional Manager Environmental Services, Deborah Lenson on [REDACTED]

Yours sincerely

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Deborah Lenson
Divisional Manager, Environmental Services