

**Submission
No 25**

MANAGEMENT AND DISPOSAL OF WASTE ON PRIVATE LANDS

Organisation: The City of Newcastle
Name: Mr Adam Gilligan
Position: Compliance Services Manager
Date Received: 29/07/2013

Liveable City.A Gilligan.DNB
Reference: 4319439
Phone: [REDACTED]



29 July 2013

The Chair
Committee on Environment and Regulation
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 200

PO Box 489, Newcastle
NSW 2300 Australia
Phone 02 4974 2000
Facsimile 02 4974 2222
Email mail@ncc.nsw.gov.au
www.newcastle.nsw.gov.au

Dear Sir/Madam

INQUIRY INTO THE MANAGEMENT AND DISPOSAL OF WASTE ON PRIVATE LAND

In response to your letter dated 28 June 2013, The City of Newcastle submits the following information in regards to the management and disposal of waste on private lands.

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

The current powers under Order 21 to s124 of the Local Government Act are predicated upon premises being in an unsafe and unhealthy condition. Council is of the opinion that an alternate test could apply for such matters, based around premises being unkempt, untidy or poorly maintained. An exception for native vegetation would be needed.

Clearer power to serve orders to *maintain* premises would be useful here, requiring owners, for example, not only to mow the grass, but *keep* mowing it on a regular basis, without the need for service of further orders. The current powers are ambiguous in this respect.

Government could consider providing a service for the aged or inform to be able to access low cost maintenance for their property. Many of Council's orders are served on persons with limited physical and financial capacity to undertake the required works.

There is a lack of a civil remedy available to affected neighbours, such as is available with noise matters, to seek a remedy via the Local Court where Councils have determined not to act.

Broader options to serve notices not only on the owner or occupier of premises, but also on the person causing the issue, would be beneficial.

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

The current arrangements are considered ineffective. Larger fines for non compliance would assist, and the capacity to acquire properties more readily could be a useful tool in extreme cases.

Powers to require monitoring, assessment, and reporting on the condition of premises, based on reasonable suspicion, would assist.

Compliance cost recovery notices would be beneficial.

Accessibility and powers of entry could be improved, especially to residential backyards – the current powers are ambiguous and open to interpretation as to whether backyards are 'a part of premises used for residential purposes', and therefore unable to be accessed without notice or a warrant.

Reducing the period available before a development approval must be commenced (currently 5 years) would be useful when the relevant development site is in a dilapidated condition.

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

Response to other questions covers this issue.

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

Defining waste could be improved by reversing the onus of proof, so that an item is waste if Council deems it so, unless evidence is adduced to the contrary.

Criteria for certain types of waste could be mandated, based on the volume or nature of the waste. A schedule of limits could be used, i.e. no more than 10 tyres per residential premises, prescribed storage requirements, restrictions on the area/proportion of premises put to waste storage, how the waste is to be stored.

A mental health referral service could be useful to assist residents who are hoarding material as a result of an underlying mental health issue.

Currently, before giving effect to large scale orders, Councils are well advised to obtain court endorsement of the validity of their order before proceeding. This could be streamlined, so that if an appeal is not made within the required timeframe, judicial notice is taken of the order.

Where orders involve demolition of premises and or the removal of waste, specific provisions should be in place to deal with the recovery of valuables by the owners. For example, valuable items of jewellery may be present in a fire damaged dwelling subject to a demolition order.

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

Hazardous materials - the availability of orphan waste/environment trust funding could be improved.

Council spends over \$100,000 per annum removing and disposing of dumped rubbish. A waste levy exemption for this material would be beneficial to Councils and encourage removal of waste in bushland areas.

Similarly, the removal of the waste levy on disposal of asbestos waste would provide a greater incentive to dumpers to dispose of such material lawfully.

Information sharing and regional cooperation via Regional Illegal Dumping (RID) squads is a good concept, but the finding arrangements must be carefully managed to ensure that Councils benefit from their involvement.

Name and shame provisions similar to those used for food safety breaches could be a deterrent.

Mandatory quantity estimates for demolition sites, possibly by an independent person, could assist in keeping track of waste generated.

Improved cost recovery powers would also assist.

Thank you for the opportunity to provide this submission on behalf of The City of Newcastle.

If you require any further clarification in regards to this matter, please do not hesitate to contact me, on [REDACTED].

Yours faithfully

A black rectangular redaction box covering the signature of Adam Gilligan.

Adam Gilligan
COMPLIANCE SERVICES MANAGER