

July 2017

Illegal Dumping
Waste and Resource Recovery Branch
NSW EPA
PO Box 668
Parramatta, NSW 2124

The Australian Sustainable Business Group (ASBG) is pleased to comment on the NSW Environment Protection Authorities' [NSW Illegal Dumping Strategy 2017–20: Consultation draft](#) (IDS).

The [Australian Sustainable Business Group](#) (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact industry, business and other organisations. We operate in NSW and Queensland and have over 120 members comprising of Australia's largest manufacturing companies. Members were involved in the development of this submission and ASBG thanks them for their contribution.

ASBG firmly supports a strong approach to illegal waste dumping using the polluters' pays approach, which has long been a policy position of the NSW EPA and many other environmental agencies. Increased penalties on illegal dumpers, while welcomed has had limited success in preventing such criminal behaviour. While the IDS is, in itself a good start, it ignores many issues that are the cause. It also leaves out a range of types of illegal dumping tending to focus on dumping on publically accessible land. Consequently, the full options of solutions are also incomplete. ASBG's submission focuses on these missing issues, areas for further consideration and subsequent solutions.

Disposal Cost is a major driver

The IDS lists the main motivations and ASBG has provided it views on each:

- *Convenience:* This is only a partial reason as many illegal dumpers go to lengths to hide their crime, which is not convenient.
- *The opportunity to make money:* A strong driver where commercial contracts are in place. Avoiding landfill costs then becomes instant profit for the illegal dumper.
- *Unwillingness to pay:* An owner of waste will generally seek a lower cost approach. A decision can be illegal option, either directly or hiring a transporter willing to participate in the crime. In addition, there is the shock of discovery of the gate prices and or regulatory requirements at a landfill or transfer station, which may explain the dumping around waste facilities. However, hiding of banned or high cost waste, in other waste, at a waste facility is another method to avoid high costs, but placing the waste in a site which appears more acceptable to the dumper.
- *An uncaring attitude:* This appears as an add-on motivation as anyone with a caring attitude would not damage the environment with their wastes.

Clearly out of the above, the avoidance of costs or potential to profit is a major driver. ASBG finds it concerning that the IDS has completely ignored the high cost of waste disposal in eastern NSW as a major driver of illegal dumping. High gate fees of NSW landfills are a direct result of the waste levy, and considerable regulatory controls and high

administrative costs associated with waste facility Environment Protection Licences. In the past, and in other states with low gate fees the middle two motives for illegal dumping are considerably diminished. A major reason for high disposal costs includes:

- NSW's high waste levy, that is \$138.20/tonne (Sydney Region), far exceeds other states with Queensland at \$0/t and Victoria (Melbourne) at \$62/t.
- Tight environmental controls over the licensing of landfills, transport of waste and other waste processing facilities.
- A highly risk adverse approach to beneficial reuse and recycling of waste materials.

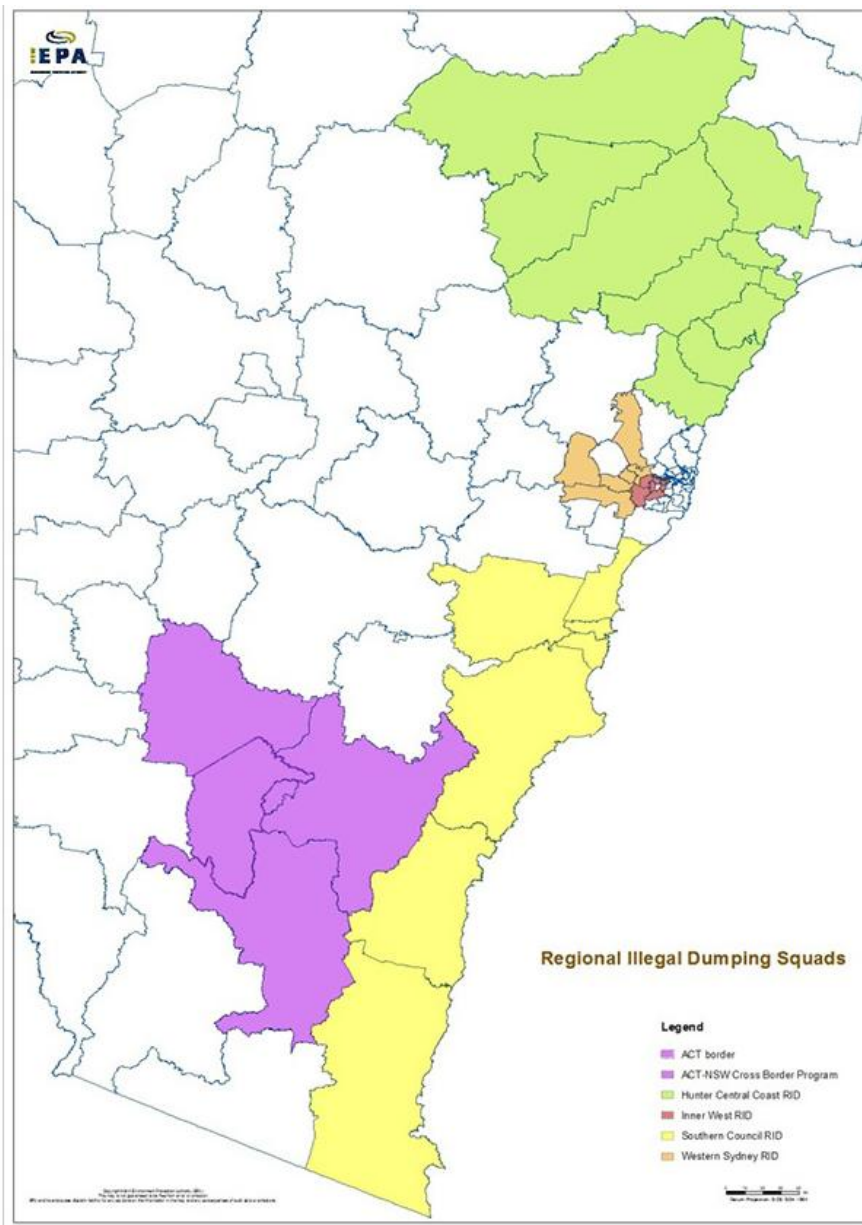
To reduce the financial incentives for illegal dumping both the cost pressures and the regulatory requirements could be eased. There are many good reasons to reduce the NSW Waste levy amount to below \$90/t including:

- Make the transport of wastes from Sydney region to South East Queensland economically unviable.
- Reduce disposal gate fees hence reduce illegal dumping incentives
- Limiting long haul transport of wastes resulting in reduce accident rates, waste incidents and fossil fuel use
- Improve the regulatory control and enforcement of wastes as more waste it is managed in NSW
- Likely increase revenue from the NSW levy due to less leakage despite a lower rate per tonne.

Better Enforcement

The NSW Government introduced the Regional Illegal Dumping Squads (RID Squads) many years ago, which have been a reasonably effective enforcement complementing the EPA in tackling small scale illegal dumpers. ASBG supports the RID Squad and strategy along with the \$13m in funding under the [Waste Less, Recycle More](#) program. However, when a tax or levy is applied to any good or service it will attract criminal activity. Such duties and levies establish an artificial market distortion. For thousands of years Governments have imposed boarder controls and tariffs and have know that while they do collect considerable consolidated revenue, a reasonable proportion must be spent on its enforcement.

The RID Squad approach is one based on agreement with Local Government areas. ASBG finds it curious that as a consequence, the RID Squads are a patchwork of action across the Sydney Basin area as show by the EPA's RID Squad areas chart:



If enforcement is to be undertaken why are certain areas not covered by RID Squads?

Other Illegal Dumping

The report has a limited definition of illegal dumping and focuses on a littering or visual illegal dumping on publically accessible land. It does not address hidden dumping where large volumes of wastes are disposed of. For example, the EPA has prosecuted a number of cases of disposal of asbestos contaminated soils as fill or falsifying they meet the Excavated Natural Material Resource Recovery Exemption.

ASBG considers there are a number of different illegal dumping types:

1. Illegal dumping on publically accessible land where waste is dumped onto public areas, roads and parks or where the public has access.

2. Illegal dumping on private —both government and privately held land — where waste is dumped on land that has restricted or private access including businesses, industrial land, residential land, land owned and managed by government and its agencies but with restricted non-public access.
3. Illegal dumping at waste facilities or sites that accept waste via Resource Recovery Exemptions. Here waste is dumped, but fails to meet the acceptance criteria imposed under regulatory and site owner / operator's conditions.

It would seem the IDS only considered Illegal dumping on public land. This is considered only part of the issue of illegal dumping as the other 2 types listed should also be considered illegal dumping.


In addition, the IDS only measure the cost of illegal dumping as cost on Local Government and ignores the cost impacts on private land. ASBG members have long reported dumping problems on their private land. Serial dumpers show evidence that they target private land. In [Bankstown City Council v Hanna NSWLEC 152](#), Mr Hanna serially dumped waste on private and public land.

Private Land Owners Clean Up Costs

There have been a number of incidents where illegal dumping has occurred on private land and the EPA has forced the land owners to bear the costs of clean up. Consequently, private land owners receive a double sting. Firstly a criminal illegally breaks in and environmentally damages their property. Secondly, the EPA or other authority requires or places a Clean Up Notice on to the landowner for removing and properly disposing of the illegally dumped waste. ASBG considers use of Clean Up Notices on land owners after they have been a victim of a crime grossly unfair.

The NSW EPA refers to the *Polluter Pays Principle* where the polluter pays for the cleanup in most of its applications, yet it appears that this approach is not used for illegal dumping on private land. No compensation system exists for victims of environmental crime, though natural disasters are different. Under the EPA's webpage [Funding to Clean Up and Remove Asbestos after Disasters](#) it states:

However, sometimes the responsible party is unknown, unavailable, unwilling (despite a legal obligation to do so) or unable to pay for emergency pollution cleanup within the timeframe required to avoid or at least minimise harm to the environment or public health.

Under these circumstances, and in the absence of the responsible party, the organisation responsible for coordinating the clean up may apply for funding under the NSW Environmental Trust's [Emergency Pollution Clean-up Program](#)  for immediate clean up and removal of serious pollution in exceptional circumstances.

Private land owners have little options if the EPA or Council imposes a Clean Up Notice, but to comply and pay doubly for the crime committed against them. Insurance coverage is generally not provided as most policies only pay out for third party damages, not regulator directed clean up. Hence, a victim of illegal dumping is probably better off if a neighbour sues them rather than the EPA or Council issuing a Clean Up Notice as insurance will cover the former.

If the unfortunate victim has had asbestos waste dumped on their property, the costs escalate considerably. Licensed asbestos assessors, removal contactor and other regulatory controls not only adds to the costs but can limit or prevent access to affected areas of the property. This is on top of the stress associated with perceived health risks associated with asbestos materials.

The only action which has been undertaken by the EPA to limit such costs is contained on its Environmental Pollution Insurance webpage. While victim assistance can be granted to individuals as is the case for [fire damage to buildings](#)

[containing asbestos](#), there is no compensation methodology for illegally dumped wastes especially asbestos wastes for small businesses and individuals.

Should further details and explanation of the above points be required please contact ASBG.

Yours Sincerely

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