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8 OCT 2018

Dear Mr Rangott *Lewis*

Thank you for your letter of 30 August 2018 seeking from the Environment Protection Authority (EPA) a 12-month report on progress made in implementing the plan of action based on recommendations made in the report *Investigation into the conduct of a Regional Illegal Dumping Squad officer and others*.

I am pleased to advise that the EPA continues to incorporate the recommendations proposed by the Commission, in working through the EPA's action plan as provided in September 2017.

I attach the EPA's action plan update in response to each of the Commission's recommendations. The EPA, in partnership with the RID Squads, have been working hard to ensure tight governance controls are in place.

As advised in a letter from the Minister for Environment in July 2018, the Government remains committed to being proactive in managing the risks of asbestos and has committed \$5 million in the 2018-19 budget to improve asbestos management. This includes funding for the emergency clean-up of asbestos, managing James Hardie Asbestos legacy sites at Parramatta, and for ongoing robust governance and oversight of asbestos matters across the state.

The administration of the Heads of Asbestos Coordination Authorities (HACA) passed to the EPA in July 2018 and will be reconstituted as an advisory committee under the *Protection of the Environment Administration Act 1991*. The EPA has created a new Asbestos Coordination Directorate to ensure that asbestos management has a strong focus, and is currently recruiting to fill the team.

If you have any further questions, please contact Robbie Beale, Acting Director, Community and Behavioural Change, EPA, on 9995 5748 or at [Robbie.beale@epa.nsw.gov.au](mailto:Robbie.beale@epa.nsw.gov.au).

Yours sincerely

**ANISSA LEVY**  
**Acting Chair and CEO**  
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Enclosure.

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## EPA Action Plan Update August 2018 – Response to ICAC

Recommendation	EPA Action (s) -September 2017	EPA Action (s) - August 2018	Status
<p><b>Recommendation 3:</b> That the Environment Protection Authority (EPA) strengthens its involvement in the WS RIDS Management Committee to ensure it properly directs and oversees the WS RIDS’s strategic and operational performance.</p>	<p>The EPA has strengthened all RID squad and RID funding agreements to require management committee members to be authorised to make decisions on behalf of their Council. The committee member must hold a manager position or above. The EPA will chair matters relating to strategic and operational performance at RID squad management committee meetings. Rid squad funding agreements commenced 1 July 2017.</p> <p><b>Response the EPA will take in its plan of action:</b> <i>Implement the intent of the recommendation in an alternative way</i></p>	<p>RID squad funding agreements capturing these requirements came into effect 1 July 2017. These agreements are in place until 2021.</p>	<p>Completed Effective from 1 July 2017</p>
<p><b>Recommendation 4:</b> That the EPA strengthens the WS RIDS’s Funding Agreement to include additional specifications consistent with regulatory good practice, such as evaluating regulatory performance against strategic outcomes.</p>	<p>The EPA has strengthened the reporting requirements in the new funding agreement, including a project evaluation framework, with a performance target of 30 per cent reduction of illegal dumping in RID squad council areas by 2020. This target aligns with the state target set out in the Draft NSW Illegal Dumping Strategy 2017–20. RID squads must complete annual strategic plans, progress reports and annual reports on project outcomes and budget expenditure.</p> <p><b>Response the EPA will take in its plan of action:</b> <i>Implement the intent of the recommendation as described in the report</i></p>	<p>RID squad funding agreements capturing these requirements came into effect 1 July 2017. These agreements are in place until 2021.</p>	<p>Completed Effective from 1 July 2017</p>

<p><b>Recommendation 5:</b> That the EPA strengthens and mandates the technical training of WS RIDs officers to ensure that all officers carry out compliant and effective regulatory activity.</p>	<p>RID Squad officers are employees of the host council. Mandating training would require the agreement of the host councils. However, the EPA outlines the following actions.</p> <p>Training continues to be provided by the EPA through the Protection of the Environment Operations Act 1997 (POEO Act) course which has been designed to equip authorised officers within local government with the necessary knowledge to fulfil their responsibilities as outlined in the POEO Act. This training includes exercising regulatory powers under the Act and an understanding of delegations as the appropriate regulatory authority. The EPA is hosting training for all RID squads on 24 October 2018 which includes Corruption and Prevention Training being conducted by the ICAC. To support compliant and effective regulatory activity, RID funding agreements require:</p> <ul style="list-style-type: none"> <li>• A Standard Operating Procedure for incident management be developed and implemented.</li> <li>• member Councils must develop a protocol for the allocation of incidents to the RID squads</li> <li>• incidents investigated by the RID squads to be reported on at all Committee meetings</li> <li>• The RID coordinator is to maintain adequate oversight of all incidents investigated by their respective RID program officers and oversee employee conduct in relation to corruption risks and corporate governance procedures.</li> </ul> <p>The draft NSW Illegal Dumping Strategy 2017–20 identifies key actions that will support this recommendation. These include:</p> <ul style="list-style-type: none"> <li>• delivering an online Illegal Dumping toolkit.</li> </ul>	<p>The EPA hosted training for all RID squads in October 2017 at its annual 2-day workshop that is attended by all RID squad officers. The workshop included Corruption and Prevention Training delivered by ICAC. The EPA is again facilitating this event in October 2018. The workshop agenda is guided by training requirements and knowledge gaps that will be workshopped during a meeting with the RID squad coordinators.</p> <p>In addition to this event, the EPA meets with the RID coordinators quarterly. Training requirements is included as a standing agenda item.</p>	<p>Ongoing</p>
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	<ul style="list-style-type: none"> <li>• providing support and promote the use of surveillance and prevention techniques by local councils and public land managers.</li> <li>• delivering compliance campaigns with each RID squad/program to target local illegal dumping issues.</li> </ul> <p>The EPA will continue to work with Australasian Environmental Law Enforcement and Regulators Network (AELERT) to ensure RID squads and local councils can access training relating to investigating illegal dumping.</p> <p><b>Response the EPA will take in its plan of action:</b>  <i>Implement the intent of the recommendation in an alternative way</i></p>		
<p><b>Recommendation 6:</b>  That the EPA, in partnership with the host council, reviews WS RIDS position descriptions to ensure they reflect the skills and personal attributes necessary to be an effective RIDS manager or field officer.</p>	<p>The host councils are currently undertaking a review of RID Squad Position Descriptions. The review outcomes will be provided to the EPA for comment as required by the new funding agreements. This review will be completed by 30 November 2017.</p> <p>The funding agreements require that the RID coordinator position does not take on patrolling responsibilities, with core duties involving oversight of RID officers and incidents being investigated. The RID coordinator will also be responsible for overseeing employee conduct in relation to corruption risks and corporate governance procedures.</p> <p><b>Response the EPA will take in its plan of action:</b>  <i>Implement the intent of the recommendation as described in the report</i></p>	<p>As required by the funding agreement, all RID coordinator and RID investigator position descriptions were reviewed and if necessary updated to align with the EPA’s funding conditions. Specifically, these agreements were updated to list the role of the RID co-ordinator as not taking on patrolling responsibilities, and to ensure adequate corporate governance and corruption risk duties were included.</p>	<p>Completed</p>

<p><b>Recommendation 7:</b> That the EPA develops a case management system to be used by all RIDs that will also support compliant processes, allow in-built approval levels for key decisions and provide metrics to improve oversight of the WS RIDs.</p>	<p>The case management system is currently in development</p> <p><b>Response the EPA will take in its plan of action:</b> <i>Implement the intent of the recommendation as described in the report</i></p>	<p>The RIDonline case management system was launched in August 2018. A number of features have been included to support compliant processes, allow-in built approval levels for key decisions and provided metrics to improve oversight of the RID squads as a whole. These include:</p> <ul style="list-style-type: none"> <li>• approval of regulatory action by the coordinator</li> <li>• addition of case file notes and logs</li> <li>• a dashboard of the status of all incidents</li> </ul>	<p>Completed</p>
<p><b>Recommendation 8:</b> That the EPA works with relevant stakeholders to develop a scheme whereby sites where asbestos is present can be certified and information provided to the relevant local council for inclusion in a register of such sites</p>	<p>The Commonwealth Asbestos Safety and Eradication Agency (ASEA) estimates that one in three Australian homes built before 1990 contains asbestos. Having information on whether asbestos is present would allow homeowners to make more informed decisions about its management, and also allow better informed conditions of consent for removal and disposal of asbestos in subsequent development applications.</p> <p>However, this is a complex area, and issues such as liability where registers are incorrect or incomplete, along with privacy matters, need to be considered and worked through.</p> <p>The EPA will work with the Heads of Asbestos Coordination Authorities (HACA) group to further explore the development of such a scheme, including linkages with the actions noted in response to Recommendation 9.</p>	<p>The EPA has recently assumed responsibility for the administration of HACA, and will shortly be commencing development of a new Statewide Asbestos Plan. Consideration of this recommendation will be made through that process.</p>	<p>Ongoing Commence exploration of options August 2018</p>

	<p><b>Response the EPA will take in its plan of action:</b>  <i>Implement the intent of the recommendation in an alternative way</i></p>		
<p><b>Recommendation 9:</b>  That the EPA works with relevant government agencies to explore ways to improve and link DA processes and conditions of consent relating to the handling, transport and disposal of waste from construction and demolition sites.</p>	<p>The Draft NSW Illegal Dumping Strategy 2017–20 has identified illegal dumping of construction and demolition waste as a key area to target. The strategy acknowledges the need to improve current practices in the “planning process”. Specifically, the strategy outlines three key actions:</p> <ul style="list-style-type: none"> <li>• Undertake social research of the construction and demolition industry to understand knowledge, attitudes and behaviours on waste management, transport and disposal - Commenced May 2017</li> <li>• Partner with planning authorities and services to achieve better outcomes and ensure that approvals lead to lawful waste management - to commence September 2017</li> <li>• Deliver a multi-phase compliance campaign targeting illegal landfilling, with a focus on waste generation, transportation and disposal - Ongoing work. Phase 1 (data gathering) completed July 2017. Phase 2 (implementation) commencing August 2017.</li> </ul> <p><b>Response the EPA will take in its plan of action:</b>  <i>Implement the intent of the recommendation as described in the report</i></p>	<p>Phase 1 of the illegal landfilling program, which included research into understanding the problem, was completed in July 2017. Phase 2 of the illegal landfilling program commenced October 2017. This includes the implementation of actions that have been identified through phase 1. As part of the ongoing work for the project improving and linking DA processes and consent conditions will be undertaken through better waste management at generation sites, improvement of up-front controls, education and awareness raising for industry and community to make lawful decisions.</p>	<p>Ongoing</p>
<p><b>Recommendation 10:</b>  That the EPA explores ways to reduce tipping fees for those who</p>	<p>At most landfills in NSW, tipping fees per tonne are higher for asbestos waste than for mixed solid waste. Currently, the waste levy of \$136 per tonne</p>	<p>Included as an action under the Draft NSW Asbestos Waste Strategy 2018-22 – ‘Investigate options to make it cheaper to dispose of asbestos waste’. The EPA is exploring options to reduce the</p>	<p>Ongoing</p>

<p>dump asbestos loads at licensed landfills.</p>	<p>(metropolitan) applies equally to both types of waste. The EPA is exploring a number of initiatives to make it easier and cheaper for the community to dispose of asbestos waste.</p> <p><b>Response the EPA will take in its plan of action:</b> <i>Implement the intent of the recommendation as described in the report</i></p>	<p>cost of lawfully and appropriately disposing of wrapped, bonded asbestos.</p>	
<p><b>Recommendation 11:</b> That the EPA strengthens its regulatory response to illegal dumping by developing a suite of approaches to incentivise proper asbestos waste disposal</p>	<p>The EPA is currently undertaking a range of work to better understand the barriers and drivers around asbestos management and disposal, including financial, economic and behavioural analysis. The EPA is developing a NSW EPA Draft Asbestos Waste Strategy 2018-2022 for consultation, which will identify a range of policy, program and regulatory reform options that will make it easier and cheaper for the community to lawfully dispose of asbestos and encourages lawful asbestos waste disposal..</p> <p><b>Response the EPA will take in its plan of action:</b> <i>Implement the intent of the recommendation as described in the report</i></p>	<p>The EPA has developed the Draft Asbestos Waste Strategy 2018-22 which is currently being finalised for public consultation.</p>	<p>Ongoing</p>
<p><b>Recommendation 12:</b> That the EPA develops clear guidelines to ensure that confusion regarding the application of waste disposal laws is eliminated.</p>	<p>The EPA recognises that there is currently some confusion around who is the 'appropriate regulatory authority' in relation to illegally dumped waste. The EPA will review the relevant legislation and seek to clarify any ambiguity. It should be noted the EPA does not administer or have delegation under the Environmental Planning</p>	<p>The EPA will continue to review the legislative framework with respect to waste or asbestos waste in NSW with a view to removing any ambiguity. The EPA is in the process of evaluating options with respect to addressing the issue of unlawfully disposed of asbestos waste.</p>	<p>In progress</p>

	<p>and Assessment Act 1997 or the Local Government Act 1993 that ICAC refers to in the report.</p> <p><b>Response the EPA will take in its plan of action:</b> <i>Implement the intent of the recommendation as described in the report</i></p>	<p>In addition, a review of the POEO waste regulation will commence in 2019, and includes a thorough review of how the waste regulation works.</p>	
<p><b>Recommendation 13:</b> That the NSW Government considers enacting a specific and serious standalone offence for the disposal of asbestos waste.</p>	<p>The EPA is considering standalone offences for illegal dumping and asbestos waste.</p>	<p>Included in the NSW EPA Draft Asbestos Waste Strategy 2018-2022 is to investigate legislative amendments to deter unlawful behaviours.</p>	<p>In progress</p>
<p><b>Recommendation 14:</b> That the NSW Government gives consideration to the establishment of a single coordinating authority, with appropriate regulatory powers and funding, that has statutory responsibility for overseeing all asbestos waste matters in NSW.</p>	<p>The NSW Ombudsman's 2017 report Asbestos: How NSW government agencies deal with the problem makes similar recommendations to ICAC's Recommendations 14 and 15. The EPA is presently working to provide input to the whole of Government response to the Ombudsman's report, which will address this matter and will be tabled in October 2017.</p>	<p>The NSW Government has responded to the Ombudsman's report by deciding to retain and strengthen HACA, rather than creating a stand-alone agency. The administration of HACA passed to the EPA in July 2018. It will be reconstituted as an advisory committee under the <i>Protection of the Environment Administration Act 1991</i>, and the Government has allocated over \$5 million in the 2018/19 budget to improve asbestos management. The EPA has created a new Asbestos Coordination Directorate to ensure that asbestos management has a strong focus, and is currently recruiting to fill the team.</p>	<p>In progress</p>
<p><b>Recommendation 15:</b> That Heads of Asbestos Coordination Authorities (HACA) continues to act as an executive committee to</p>	<p>The NSW Ombudsman's 2017 report Asbestos: How NSW government agencies deal with the problem makes similar recommendations to ICAC's Recommendations 14 and 15. The EPA is presently working to provide input to the whole of Government response to the Ombudsman's report,</p>	<p>See above (recommendation 14).</p>	<p>In progress</p>



any newly-created coordinating authority.	which will address this matter and will be tabled in October 2017.		
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