

Council agreed to purchase land containing toxic residue given that purchasers were unaware of site state

Legislation	Ombudsmen Act 1975, Local Government Official Information and Meetings Act 1987
Agency	Local authority
Ombudsman	Sir Brian Elwood
Case number(s)	C6187
Date	2001

Prior to availability of a LIM, property owners' development of their land revealed previous use was illegal toxic waste dump—Council knew this prior to purchase but had taken no action to either assess or remedy the problem as a matter of public safety—Ombudsman concluded the Council had a responsibility to assist the complainants—Council then purchased the land with the intention of declaring it an 'orphan site' prior to assessment and clean up if necessary.

The complainants purchased a rural block prior to the introduction in 1992 of s 44A of the *Local Government Official Information and Meetings Act 1987*. This section provided for local authorities to issue Land Information Memoranda (LIM). The complainants proceeded to undertake extensive site works and planted thousands of trees with the intention of developing a firewood business.

The soil disturbance uncovered the residue of an illegal toxic waste dump. The Council was aware of the dump, but had taken no action either to assess the site environmentally or to take any other steps to ensure public safety. The complainants found themselves in the position of being unable to work the land because of the unknown health risks and unable to sell it.

Following a lengthy investigation, the view was formed that the Council had a responsibility to assist the complainants, given that it had taken no steps to warn them or the public of possible dangers. The Council accepted that view and arranged to purchase the land from the complainants with the intention of having it declared an "orphan site" prior to environmental assessment and clean up if necessary.

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