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# Environmental Management Calculation Protocol



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# About this document

This document is the Environmental Management Calculation Protocol (the Protocol) referred to in Clause 10A of the Protection of the Environment Operations (General) Regulation 2009 (the General Regulation).

In April 2014, the Protection of the Environment (General) Amendment (Licensing Fees) Regulation 2014 (the Amendment Regulation) was made. The Amendment Regulation introduced changes to the General Regulation progressively from 1 July 2014. The Amendment Regulation also established the risk-based licensing system, including the Protocol, which commenced on 1 July 2015. Changes to licence fees commenced on 1 July 2016. All references to the General Regulation mentioned in this document commenced on 1 July 2015.

The Protocol sets out the matters and methods the NSW Environment Protection Authority (EPA) will use to determine the environmental management category allocated to holders of environment protection licences issued under the *Protection of the Environment Operations Act 1997* (POEO Act).

The environmental management category will be used to calculate the administrative fee to be paid by environment protection licensees in accordance with Clause 10 of the General Regulation.

The EPA may vary the Protocol from time to time by notice in the *NSW Government Gazette*.

# Glossary

<b>Amendment Regulation</b>	is the Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2014.
<b>Clean-up notices</b>	are as set out in Part 4.2 of the POEO Act.
<b>Enforceable undertakings</b>	as referred to in this Protocol are set out in section 253A of the POEO Act. Enforceable undertakings in relation to the <i>Waste Avoidance and Resource Recovery Act 2001</i> , <i>Environmentally Hazardous Chemicals Act 1985</i> and the <i>Ozone Protection Act 1989</i> are excluded from the operation of this Protocol.
<b>Environmental improvement programs</b>	are pollution reduction programs (under section 68 of the POEO Act) that have been initiated by the licensee by way of an application made to the EPA to vary their licence under section 58(3) of the POEO Act. The environmental improvement programs must be programs outside of those required to achieve compliance with legislative requirements under the POEO Act or Regulations or any existing conditions on the licence at the time that the environmental improvement program is added to the licence.
<b>Environmental Management Calculation Protocol (this document)</b>	sets out the matters and methods the EPA will use to determine the environmental management category allocated to holders of licences issued under the POEO Act.
<b>Environmental management category (A, B, C, D or E)</b>	is allocated to a licence holder based on the licence holder's performance in managing environmental risks associated with the licensed activity. The environmental management category is used to calculate the administrative fee in accordance with Clause 10 of the General Regulation.
<b>Environmental management factors</b>	are listed in the table in Clause 10 of the General Regulation (and reproduced as Table 1 of this Protocol). Environmental management factors are the multipliers corresponding to each environmental management category and are used to calculate the licence administrative fee.
<b>Environmental management score</b>	is based on licensee compliance history/EPA regulatory response associated with the licensed activity, calculated using the methodology set out in section 3.1 of this Protocol. The environmental management score is the sum of the yearly regulatory score over three years.
<b>Environmental management systems and practices</b>	means an environmental management system certified to ISO 14001, and any other systems and practices listed in Table 4 of this Protocol.
<b>Environmental management weighting</b>	listed in Table 2 of this Protocol, is linked to regulatory actions taken over the past three years and reflects the significance of the regulatory action taken. The weighting is used to calculate the environmental management score.
<b>Formal warnings</b>	are formal warnings issued for any suspected or potential contravention of the POEO Act or Regulations, including the suspected or potential commission of an offence under the POEO Act or Regulations. Formal warnings issued for any suspected or potential contravention of the <i>Waste Avoidance and Resource Recovery Act 2001</i> , <i>Environmentally Hazardous Chemicals Act 1985</i> and the <i>Ozone Protection Act 1989</i> are excluded from the operation of this Protocol.
<b>General Regulation</b>	is the Protection of the Environment Operations (General) Regulation 2009 as in force from time to time.

**Inspections – incident related** are inspections in response to:

- a. an incident
- b. a verified complaint (being a complaint that is verified by the EPA or the licence holder as being directly attributable to the licensed premises) or
- c. non-compliance with licence conditions or legislative requirements under the POEO Act or Regulations.

It also includes:

- follow-up inspections determined by the EPA to be related to the incident, verified complaint or non-compliance.
- instances where the EPA becomes aware of or identifies an incident while at the licensed premises.

**Mandatory environmental audits** are as set out in Part 6.2 of the POEO Act.

**Official cautions** are official cautions issued to a licensee for any offence in the POEO Act or Regulations. Official cautions issued for offences under the *Waste Avoidance and Resource Recovery Act 2001*, *Environmentally Hazardous Chemicals Act 1985* and the *Ozone Protection Act 1989* are excluded from the operation of this Protocol. Official cautions for late or non-submission of an annual return are not included in this regulatory action for the purposes of this Protocol.

**Official cautions for late or non-submission of an annual return** are official cautions issued to a licensee for the late or non-submission of an annual return, the requirement of which is included as a licence condition under section 64 of the POEO Act.

**Penalty notices – Category 1** are penalty notices issued by the EPA for the offences under the following sections of the POEO Act:

s 48	Failure to hold a licence – licensing requirement – scheduled activities (premises-based)
s 49	Failure to hold a licence – licensing requirement – scheduled activities (not premises-based)
s 64	Failure to comply with condition except for the late or non-submission of an annual return
s 91	Failure to comply with clean-up notice by occupiers or polluters
s 97	Failure to comply with prevention notice
s 120	Prohibition of pollution of waters
s 128	Standards of air impurities not be exceeded
s 142A	Pollution of land
s 143	Unlawful transporting of waste (asbestos or hazardous waste)
s 144	Use of land as waste facility without lawful authority
s 144AAA	Unlawful disposal of asbestos waste
s144AAB	Re-use and recycling of asbestos waste

and penalty notices issued by the EPA for the offences under the following clause of the Protection of the Environment Operations (Waste) Regulation 2014:

cl 71 Application of proximity principle to transportation in course of business

Penalty notices – Category 1 do not include penalty notices that have been issued but subsequently withdrawn under s 228 of the POEO Act.

<b>Penalty notices – Category 2</b>	are all penalty notices issued by the EPA for offences prescribed by schedule 6 of the General Regulation not categorised as penalty notices – category 1, with the exception of penalty notices in relation to offences under the <i>Environmentally Hazardous Chemicals Act 1985</i> and the <i>Ozone Protection Act 1989</i> . Penalty notices for late or non-submission of an annual return are not included in this regulatory action for the purposes of this Protocol.  Penalty notices – Category 2 do not include penalty notices that have been issued but subsequently withdrawn under s 228 of the POEO Act.
<b>Penalty notices for late or non-submission of an annual return</b>	are penalty notices that are issued for the late or non-submission of an annual return, the requirement of which is included as a licence condition under section 64 of the POEO Act.  Penalty notices for late or non-submission of an annual return do not include penalty notices that have been issued but subsequently withdrawn under s 228 of the POEO Act.
<b>POEO Act</b>	is the <i>Protection of the Environment Operations Act 1997</i> .
<b>Pollution reduction programs</b>	are, for the purposes of this Protocol, programs initiated or directed by the EPA to carry out works or to install plant for the purposes of preventing, controlling, abating or mitigating pollution. Pollution reduction programs are imposed on a licensee by the EPA by way of a licence condition under section 68 of the POEO Act.
<b>Prevention notices</b>	are as set out in Part 4.3 of the POEO Act.
<b>Regulations</b>	are any Regulations made under the POEO Act, as in force from time to time
<b>Successful prosecutions</b>	are where: <ul style="list-style-type: none"> <li>a. a licensee; or</li> <li>b. a director or directors of a company that holds a licence</li> </ul> has/have been convicted of an offence under the POEO Act and Regulations. Tier 1 prosecutions are as set out in Part 5.2 of the POEO Act and for the purposes of this Protocol do not include prosecutions for offences under the <i>Ozone Protection Act 1989</i> . Tier 2 prosecutions are as defined in section 114 of the POEO Act, and for the purposes of this Protocol do not include prosecutions for offences under the <i>Waste Avoidance and Resource Recovery Act 2001</i> , <i>Environmentally Hazardous Chemicals Act 1985</i> and the <i>Ozone Protection Act 1989</i> .  Successful prosecutions include prosecutions for offences for which a penalty notice was issued but subsequently withdrawn by the EPA under s 228 of the POEO Act but do not include ‘Successful prosecutions – Court elected penalty notice – Category 1’, ‘Successful prosecutions – Court elected penalty notice – Category 2’ or ‘Successful prosecutions – Court elected penalty notice for late or non-submission of an annual return’.
<b>Successful prosecutions – Court elected penalty notice – Category 1</b>	are where a licensee has chosen to contest a penalty notice – category 1 in court and has subsequently been convicted of the offence.
<b>Successful prosecution – Court elected penalty notice – Category 2</b>	are where a licensee has chosen to contest a penalty notice - category 2 in court and has subsequently been convicted of the offence.
<b>Successful prosecutions – court elected penalty notice for late or non-submission of an annual return</b>	are where a licensee has chosen to contest a penalty notice for late or non-submission of an annual return in court and has subsequently been convicted of the offence.
<b>Suspension of licence</b>	is as set out in section 79 of the POEO Act.
<b>Total environmental management score</b>	is calculated using the methodology set out in section 3.3 of this Protocol. The total environmental management score is the environmental management score minus the total environmental management score reduction. The total environmental



management score is compared to threshold values set out in Table 6 at section 3.4 of this Protocol to determine the environmental management category.

**Total environmental management score reduction**

is calculated using the methodology set out in section 3.2. of this Protocol. The environmental management score reduction is based on environmental management systems and practices a licensee has in place, and any environmental improvement programs initiated by the licensee. The total environmental management score reduction is deducted from the environmental management score.

**Year 1**

is the most recent licence reporting period (this is generally a 12-month period).

**Year 2**

is the licence reporting period prior to year 1.

**Year 3**

is the licence reporting period prior to year 2.

**Yearly regulatory score**

is calculated using the methodology set out in section 3.1 of this Protocol. The yearly regulatory score is based on a licensee's compliance history for each year considered as part of the risk assessment. The yearly regulatory score is used in calculating the environmental management score.

# 1. Overview of the EPA's risk-based licensing system

The EPA's risk-based licensing system aims to ensure that all licensees receive an appropriate level of regulation based on the level of risk they pose.

The EPA will assess the site-specific risks posed by a licensed premises and identify any environmental issues that a licensee needs to address and where the EPA needs to focus its regulatory attention.

The risk assessments will consider three components:

1. the day-to-day operations at the site, assessing the types of environmental media relevant to the premises (air, odour, water and noise emissions)
2. the pollutant incident risk at the premises
3. the environmental management performance of the licensee.

During the assessment of the first two components, the EPA will take into account:

- the type and nature of emissions from the premises
- pollution control measures used at the premises
- proximity to sensitive environments and receptors (including residences)
- level of sensitivity of environment and receptors.

The third component of the assessment examines the environmental management performance of the licensee. The EPA will take into account:

- a licensee's environmental performance associated with the licensed activity based on their compliance history
- the regulatory actions the EPA has taken to respond to incidents and non-compliances
- environmental management systems and practices the licensee has in place to control and mitigate environmental risks
- environmental improvement programs initiated by the licensee.

Based on this assessment, a licensee will be allocated an environmental management category (EMC): A, B, C, D or E for each licence.

Where a licensee holds a number of licences, an EMC will be allocated to each licence based on regulatory actions and environmental management performance at the premises covered by that licence.

The results from each of the three components of the risk assessment will be used to determine the environmental risk level for each licence, and each licence will be allocated to one of three risk levels: levels 1, 2 or 3 (with level 3 being the highest risk).

The risk assessments will inform the level and type of EPA regulatory intervention required; for example, a higher risk level may result in more intensive monitoring and reporting obligations on the licence.

# Overall environmental risk level 1, 2 or 3

## Day-to-day operations

- Air/odour
- Water
- Noise

## Pollution incident risk

## Environmental management

- Enforcement history
- Regulatory actions
- Environmental management systems, practices and improvements

- Types and nature of emissions
- Pollution control measures
- Proximity to sensitive environments/receptors
- Level of sensitivity of environments/receptors

The environmental management categories (A, B, C, D or E) allocated to the licensees as part of the third component of the risk assessment process will also be used to calculate the licence administrative fees.

The EPA will determine environmental management categories in accordance with this Protocol.

## 2. Calculation of licence administrative fees

The General Regulation prescribes licence administrative fees for holders of environment protection licences. Clause 10 in combination with Schedule 1 of the General Regulation prescribes these fees based on the type of activity (fee-based activities) and the scale of these activities.

Under Clause 10 of the General Regulation the administrative fee for each licence will be calculated based on the type of activity (fee-based activities), the scale of these activities, and the environmental management category determined for each of the licensed activities. The environmental management category allocated to a licensee for the licensed activities corresponds with an environmental management factor. These factors are set out in the table to Clause 10 (and in Table 1 of this Protocol). The environmental management factor acts as a multiplier to the administrative fee, resulting in a decrease, increase or no change to the licence administrative fee.

Licensees who perform well and minimise environmental risk will be rewarded with a reduction of their administrative fees. Poor performing licensees will pay licence fees that provide them with an incentive to improve their performance.

Clause 10 of the General Regulation sets out a three-step process for calculating the administrative fee:

## Step 1: Calculation of administrative fee units

Multiply the amount of one administrative fee unit for the relevant licence fee period by:

- the number of administrative fee units specified in Schedule 1 to the General Regulation for the activity authorised or controlled by the licence, or
- if the licence authorises or controls more than one activity, the greatest number of administrative fee units specified in Schedule 1 for those activities.

## Step 2: Determination of the environmental management category

Determine the environmental management category in accordance with this Protocol.

## Step 3: Calculation of administrative fee

Multiply the amount calculated in Step 1 by the environmental management factor for the applicable environmental management category (Step 2).

Table 1: Environmental management categories and corresponding environmental management factors \*

Environmental management category	Environmental management factor
A	0.95
B	1
C	1.3
D	1.6
E	2

\* Environmental management factors prescribed in Clause 10 of the Protection of the Environment Operations (General) Regulation 2009

For a new licence application (section 53(2) of the POEO Act) and for the transport of trackable wastes, only Step 1 will apply for the purposes of calculating the administrative fee.

The change in licence administrative fees as set out in the General Regulation and outlined in this document came into effect on 1 July 2016.

# 3. Determining the environmental management category

The EPA will determine the environmental management category for each licensee in accordance with this Protocol based on the following criteria and methodology.

## 3.1. Calculating the environmental management score based on licensee compliance history/regulatory response

Table 2 sets out the regulatory actions that may be undertaken by the EPA in relation to a licensee’s operations, and the environmental management weighting corresponding to that regulatory action based on how long ago the regulatory action occurred. The environmental management weighting is based on a licensee’s performance associated with the licensed activities over the past three years.

Regulatory actions taken in the most recent reporting period (i.e. in the past 12 months) will be weighted more heavily than those actions taken in the two years prior. This is reflected in the environmental

management weighting, where it is reduced by 50% and 90% where the action occurred in the second and third years, respectively.

Where a regulatory action taken by the EPA is withdrawn, discontinued, revoked, or otherwise ceases to have legal effect, the EPA may adjust a licensee's environmental management score for the licence fee period in which the regulatory action took place, and subsequent licence fee periods where necessary. Any necessary adjustment to the environmental management score and environmental management category may be backdated to the licence fee period in which the regulatory action took place. Where required, the EPA may refund licence administrative fees as a result of the adjustment.

**Table 2: Regulatory actions, criteria considered and corresponding environmental management weightings**

Regulatory actions	Criteria considered	Environmental management weighting
Successful prosecutions Tier 1	Number in year 1	500
	Number in year 2	250
	Number in year 3	50
Successful prosecutions Tier 2	Number in year 1	360
	Number in year 2	180
	Number in year 3	36
Successful prosecution – court elected penalty notice – Category 1	Number in year 1	130
	Number in year 2	65
	Number in year 3	13
Successful prosecution – court elected penalty notice – Category 2	Number in year 1	100
	Number in year 2	50
	Number in year 3	10
Successful prosecution – court elected penalty notice – late or non-submission of an annual return	Number in year 1	70
	Number in year 2	35
	Number in year 3	7
Enforceable undertakings	Number in year 1	150
	Number in year 2	75
	Number in year 3	15
Suspension of licence	Number issued in year 1	130
	Number issued in year 2	65
	Number issued in year 3	13
Mandatory environmental audits	Number required in year 1	130
	Number required in year 2	65
	Number required in year 3	13
Penalty notices – Category 1 <sup>1</sup>	Number issued in year 1	120
	Number issued in year 2	60
	Number issued in year 3	12

<sup>1</sup> For the purposes of Table 2, Penalty notices – Category 1 does not include penalty notices that are court elected.

Regulatory actions	Criteria considered	Environmental management weighting
Penalty notices – Category 2 <sup>2</sup>	Number issued in year 1	90
	Number issued in year 2	45
	Number issued in year 3	9
Penalty notices for late or non-submission of an annual return <sup>3</sup>	Number issued in year 1	60
	Number issued in year 2	30
	Number issued in year 3	6
Official cautions	Number issued in year 1	60
	Number issued in year 2	30
	Number issued in year 3	6
Official cautions for late or non-submission of an annual return	Number issued in year 1	30
	Number issued in year 2	15
	Number issued in year 3	3
Formal warnings	Number issued in year 1	40
	Number issued in year 2	20
	Number issued in year 3	4
Clean-up notices	Number issued in year 1	90
	Number issued in year 2	45
	Number issued in year 3	9
Prevention notices	Number issued in year 1	90
	Number issued in year 2	45
	Number issued in year 3	9
Pollution reduction programs	Number required in year 1	70
	Number required in year 2	35
	Number required in year 3	7
Site inspections – incident related	Number in year 1	20
	Number in year 2	10
	Number in year 3	2

### 3.2. Consideration of years 1, 2 and 3 in determining the environmental management score

The scheme commenced on 1 July 2015 and the calculation of a licensee's environmental management score initially only considered the licensee's performance associated with the licensed activity in year 1. For the first year of the scheme, year 1 was the licence reporting period that commenced between 1 July 2014 and 30 June 2015. In the second year of the scheme, the licensee's performance associated with the licensed activity in years 1 and 2 were considered in the calculation of the environmental management score. Year 2 was the licence reporting period that commenced between 1 July 2015 and

<sup>2</sup> For the purposes of Table 2, Penalty notices – Category 2 does not include penalty notices that are court elected.

<sup>3</sup> For the purposes of Table 2, 'Penalty notices for late or non-submission of an annual return' does not include penalty notices that are court elected.

30 June 2016. For all subsequent years of the scheme, a licensee’s performance associated with the licensed activity in years 1, 2 and 3 will be used to determine their environmental management category.

The ‘trend’ in EPA regulatory actions and a licensee’s performance over a three-year period is also considered when determining the environmental management score for licensee compliance history/EPA regulatory response. Where there is a history of poor environmental performance, all regulatory actions for the previous three years will be included in the environmental management category calculation. Conversely, where regulatory action is taken in year 3 only (for example), this is not considered to be indicative of a pattern of poor performance - therefore that regulatory action is not included in the environmental management category calculation.

Table 3 specifies when regulatory actions will be included in the environmental management category calculation.

**Table 3: Consideration of ‘trend’ in EPA regulatory actions over a three-year period**

Regulatory action taken			Circumstances in which regulatory action is included in the environmental management category calculation
Year 1	Year 2	Year 3	
x	x	x	Regulatory action taken in each of the past three years. This indicates a history of poor environmental management performance. All regulatory actions taken in years 1, 2 and 3 are included in the environmental management category calculation.
x	x		Regulatory action taken in each of the past two years. This indicates a trend to poor environmental management performance. All regulatory actions taken in years 1 and 2 are included in the environmental management category calculation.
x			Regulatory action taken in most recent reporting period indicating poor environmental management performance. This is not considered to be indicative of a pattern of poor performance. All regulatory actions taken in year 1 are included in the environmental management category calculation.
x		x	Regulatory action taken in the most recent reporting period, but no action taken in the period immediately prior to that. This is not considered to be indicative of a pattern of poor performance. Only the regulatory actions taken in year 1 are included in the environmental management category calculation. The regulatory action in year 3 is not included in the environmental management category calculation.
	x	x	No regulatory action taken in the most recent reporting period, but actions taken in the two periods immediately prior to that. This indicates improving environmental management performance. All regulatory actions taken in years 2 and 3 are included in the environmental management category calculation.
	x		No regulatory action taken in the most recent reporting period, but actions taken in the period immediately prior to that. This is not considered to be indicative of a pattern of poor performance. No regulatory actions taken in year 2 are included in the environmental management category calculation.
		x	No regulatory action taken in the two most recent reporting periods, but action taken in the period immediately prior to those.



	This indicates improved environmental management performance. No regulatory actions taken in year 3 are included in the environmental management category calculation.
	No regulatory action taken in the past three years. This indicates good environmental management performance.

For each year considered, the yearly regulatory score will be calculated based on the criteria and weightings outlined in Table 2 as follows:

$$\text{Number of regulatory action(s)} \times \text{Environmental management weighting} = \text{Yearly regulatory score}$$

Each yearly regulatory score will then be added to determine the environmental management score for a licensee’s compliance history and EPA regulatory response in accordance with Table 3.

$$\text{Yearly regulatory score for year 1} + \text{Yearly regulatory score for year 2} + \text{Yearly regulatory score for year 3} = \text{Environmental management score}$$

### 3.3. Calculating the total environmental management score reduction

The total environmental management score reduction is based on the:

- environmental management systems and practices a licensee has in place (listed in Table 4), and
- environmental improvement programs specified in the licence.

#### 3.3.1. Licensee environmental management systems and practices

Where a licensee has implemented environmental management systems and practices for a licensed activity, they will receive a reduction from their total environmental management score. The environmental management systems and practices form one component of the total environmental management score reduction.

The calculation method for determining this score reduction is set out in Table 4. Where a ‘No’ response is recorded, a nil score is applied. The score reduction is applied for every year in which environmental management systems and practices are in place.

**Table 4: Licensee environmental management systems and practices and corresponding score reductions**

Licensee environmental systems and practices	Score reduction for ‘Yes’ response
Does the licensee have an ISO 14001 certified environmental management system (EMS) or any other system that the EPA considers is equivalent? If yes:	
Has the licensee conformed to their EMS or have licensees rectified all environmental related non-conformances with the EMS?	80
Has the licensee had environmental related non-conformances with the EMS that have not been rectified?	60

Note:

An **equivalent system** means an environmental management system that the EPA considers is equivalent to the accountability, procedures, documentation and record keeping requirements of an ISO 14001 certified system.



If the licensee does not have an ISO 14001 certified environmental management system or any other system that the EPA considers is equivalent, the following questions should be answered in relation to any documented environmental practices, procedures and systems in place:

Has the licensee assessed their activities/operations to identify the aspects that have a potential to cause environmental impacts, and implemented operational controls to address these aspects?	18
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Has the licensee established and implemented an operational maintenance program including preventative maintenance?	12
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Does the licensee keep records of regular inspections and maintenance of plant and equipment?	6
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Does the licensee conduct regular environmental audits at the premises that are undertaken by a competent person?	7
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Notes:

**Regular** means conducted at least once every 12 months.

A **competent person** is someone that acts in accordance with the principles of auditing as set out in clauses 4 and 7.22 of AS/NZS ISO 19011:2014 - *Guidelines for auditing management systems*.

Has the licensee engaged a third party to conduct an independent audit of the documented environmental practices, procedures and systems in place?	2
--	---

Does the licensee have an established and implemented environmental improvement or management plan?	12
---	----

Are staff trained in environmental issues that may arise from the licensee's activities/operations and are records of training kept?	3
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### 3.3.2. Environmental improvement programs

The licensee may choose to enter into an environmental improvement program for the licensed activities. The environmental improvement programs must be agreed to between the licensee and the EPA. The environmental improvement program details are attached as a condition to the licence and must be programs outside of those required to achieve compliance with legislative requirements or any existing conditions on the licence as applying at the time the environmental improvement program is entered into.

The licensee must apply to the EPA for a licence variation in order for the programs to be included on the licence, and provide the following information:

- description of program, including costs
- proposed completion date
- key reporting milestones
- details of expected environmental improvements.

The calculation method for determining the reduction to the environmental management score for environmental improvement programs is set out in Table 5. The score reduction is applied in the next licence fee period. The score reduction applies for each environmental improvement program entered into, in accordance with Table 5.

The EPA may remove the environmental improvement program from the licence if the key milestones or any other conditions of the environmental improvement program are not met.

If the environmental improvement program is removed from the licence, the EPA will add an amount equivalent to the total score reduction received for the environmental improvement program, on to the environmental management score for the following licence-fee period.

**Table 5: Score reduction for environmental improvement programs**

Action	Criteria considered	Score reduction
Environmental improvement programs	Number put in place in year 1	70
	Number put in place in year 2	35
	Number put in place in year 3	7

### 3.3.3. Calculation of total environmental management score reduction

The total environmental management score reduction is calculated as follows:

$$\text{Licensee environmental management systems and practices score reduction} + \text{Environmental improvement programs score reduction} = \text{Total environmental management score reduction}$$

### 3.4. Calculating the total environmental management score

The total environmental management score for each licensee will be calculated by deducting the licensee’s total environmental management score reduction from the licensee’s environmental management score as follows:

$$\text{Environmental management score} - \text{Total environmental management score reduction} = \text{Total environmental management score}$$

### 3.5. Calculating the environmental management category

The total environmental management score will determine a licensee’s environmental management category as follows:

**Table 6: Total environmental management score and corresponding environmental management category**

Total environmental management score	Environmental management category
0-5	A
6-60	B
61-180	C
181-400	D
401+	E

The environmental management category will then be used by the EPA as part of calculating the annual licence administrative fee in accordance with Clause 10 of the General Regulation.

Reference number:(n2020-3684)



# **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The ARTC (Parkes to Narromine) waste timbers exemption 2020**

### **Introduction**

This exemption:

- Is issued by the NSW Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of ARTC (Parkes to Narromine) waste timbers from certain requirements under the Protection of the Environment Operations Act 1997 (POEO Act) and Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the ARTC (Parkes to Narromine) waste timbers order 2020'.

### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to ARTC (Parkes to Narromine) waste timbers. In this exemption, ARTC (Parkes to Narromine) waste timbers means turnout timbers, transoms and timber sleepers that:
- (a) have been sourced from ARTC railway track (EPL 3142) between Parkes and Narromine;
  - (b) have been generated from ARTC re-sleeping and track work;
  - (c) have not been sourced from locations within the ARTC Contaminated Land Database; and
  - (d) meet all the criteria of the ARTC Waste Timber Separation and Management Protocol (Appendix 1 to the 'ARTC (Parkes to Narromine) waste timbers order 2020').

### **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies, or intends to apply, ARTC (Parkes to Narromine) waste timbers to land as set out in 1.1.

### 3. Duration

- 3.1. This exemption commences on 5 June 2020 and is valid until 4 June 2021, or unless revoked by the EPA in writing at an earlier date.

### 4. Premises to which this exemption applies

- 4.1. This exemption applies to the premises at which the consumer's actual or intended land application of ARTC (Parkes to Narromine) waste timbers is carried out.

### 5. Exemption

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual, or intended application, of ARTC (Parkes to Narromine) waste timbers to land in civil engineering structures or as a soil amendment or as input to compost;
- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where ARTC (Parkes to Narromine) waste timbers is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### 6. Conditions of exemption

The exemption is subject to the following conditions:

- 6.1. At the time ARTC (Parkes to Narromine) waste timbers are received at the premises, it must meet all chemical and other material requirements for ARTC (Parkes to Narromine) waste timbers which are required under 'the ARTC (Parkes to Narromine) waste timbers order 2020'.
- 6.2. ARTC (Parkes to Narromine) waste timbers can only be applied to land in civil engineering or landscaping structures.
- 6.3. The consumer must ensure that any application of ARTC (Parkes to Narromine) waste timbers to land must occur within a reasonable period of time after receipt.

### 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply, ARTC (Parkes to Narromine) waste timbers to land.

**yard** means a system of tracks not designated as part of the defined interstate railway network, used for loading or unloading trains or for other purposes

**Director Environmental Solutions (CLR)  
Environment Protection Authority  
(by delegation)**

## **Notes**

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not ARTC (Parkes to Narromine) waste timbers is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of ARTC (Parkes to Narromine) waste timbers remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.



# **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The Australian Rail Track Corporation excavated material exemption 2020**

### **Introduction**

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Australian Rail Track Corporation ('ARTC') excavated material from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Australian Rail Track Corporation excavated material order 2020'.

### **1. Waste to which this exemption applies**

1.1. This exemption applies to ARTC excavated material that is, or is intended to be, applied to land for the purposes of:

- earthworks during construction activities on land zoned for industrial uses;
- building or maintaining railway infrastructure; or
- public road related activities within the road corridor, including road construction, maintenance and installation of public road infrastructure facilities.

1.2. ARTC excavated material means soil, sand, ballast, rock or aggregate that is derived through activities within the ARTC rail corridor, including redevelopment and reconditioning of railway lines, access roads and other ancillary railway systems.

### **2. Persons to whom this exemption applies**

2.1. This exemption applies to any person who applies or intends to apply ARTC excavated material to land as set out in 1.1.

### **3. Duration**

- 3.1. This exemption commences on 1 May 2020 and is valid until 1 May 2022, unless revoked by the EPA by notice in writing at an earlier date.

### **4. Premises to which this exemption applies**

- 4.1. This exemption applies to the premises at which the consumer's actual or intended application of ARTC excavated material is carried out.

### **5. Exemption**

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of ARTC excavated material to land as engineering fill or for purposes described in clause 1.1 at the premises:

- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
- Part 4 of the Waste Regulation;
- section 88 of the POEO Act; and
- clause 109 and 110 of the Waste Regulation.

- 5.2. The exemption does not apply in circumstances where ARTC excavated material is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal' (thermal treatment) of Schedule 1 of the POEO Act.

### **6. Conditions of exemption**

The exemption is subject to the following conditions:

- 6.1. At the time the ARTC excavated material is received at the premises, the material must meet all chemical and other material requirements for ARTC excavated material which are required on or before the supply of ARTC excavated material under 'the Australian Rail Track Corporation excavated material order 2020'.
- 6.2. The ARTC excavated material can only be applied to land for purposes described in clause 1.1.
- 6.3. The ARTC excavated material must not be applied to land in environmentally sensitive areas.
- 6.4. This approval does not apply to any of the following applications:
- 6.4.1. Landscaping,
  - 6.4.2. Residential construction or renovation,
  - 6.4.3. Construction of dams or related water storage infrastructure,
  - 6.4.4. Mine site rehabilitation,
  - 6.4.5. Quarry rehabilitation,
  - 6.4.6. Agriculture or forestry applications,
  - 6.4.7. Sand dredge pond rehabilitation,
  - 6.4.8. Back filling of quarry voids, and
  - 6.4.9. Raising or reshaping of land used for agriculture.

- 6.5. The consumer must ensure that ARTC excavated material is not applied in or beneath water, including groundwater.
- 6.6. The consumer must keep a written record of the following for a period of six years:
  - the quantity of any ARTC excavated material received; and
  - the name and address of the supplier of the ARTC excavated material received.
- 6.7. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 6.8. The consumer must ensure that any application of ARTC excavated material to land must occur within a reasonable period of time after its receipt.

## 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply ARTC excavated material to land.

**environmentally sensitive area** means any of the following:

- (a) land to which [State Environmental Planning Policy No 14—Coastal Wetlands](#) or [State Environmental Planning Policy No 26—Littoral Rainforests](#) applies;
- (b) land within a wetland of international significance declared under the [Ramsar Convention on Wetlands](#) or within a World heritage area declared under the [World Heritage Convention](#);
- (c) land reserved as an aquatic reserve under the [Fisheries Management Act 1994](#) or as a marine park under the [Marine Parks Act 1997](#);
- (d) land within 100 metres of land to which paragraph (a), (b) or (c) applies;
- (e) land identified in any environmental planning instrument as being of high biodiversity significance;
- (f) land reserved under the [National Parks and Wildlife Act 1974](#) or land acquired under Part 11 of that Act;
- (g) land reserved or dedicated under the [Crown Lands Act 1989](#) for the preservation of flora, fauna or for other environmental protection purposes;
- (h) land identified as being critical habitat under the [Threatened Species Conservation Act 1995](#) or Part 7A of the [Fisheries Management Act 1994](#);
- (i) land dedicated or set apart under the [Forestry Act 2012](#) or the former Act as a flora reserve;
- (j) land (including subterranean lands) declared to be a wilderness area under the [Wilderness Act 1987](#) or the [National Parks and Wildlife Act 1974](#);
- (k) any additional areas listed as an environmentally sensitive area in a relevant Local Environmental Plan; and
- (l) agricultural land being land used for broad acre cropping, pasture, horticulture, growing fruit and keeping livestock.



**public roads** means:

- (a) any road that is opened or dedicated as a public road, whether under the *Roads Act 1993* (the Roads Act) or any other act or law, and
- (b) any road that is declared to be a public road for the purposes of the Roads Act.

**public road infrastructure facilities** means:

- (a) tunnels, ventilation shafts, emergency accessways, vehicle or pedestrian bridges, causeways, road-ferries, retaining walls, toll plazas, toll booths, security systems, bus lanes, transit lanes, transitways, transitway stations, rest areas and road related areas (within the meaning of the *Road Transport (General) Act 2005*), and
- (b) associated public transport facilities for roads used to convey passengers by means of regular bus services within the meaning of the *Passenger Transport Act 1990*, and
- (c) bus layovers that are integrated or associated with roads (whether or not the roads are used to convey passengers by means of regular bus services within the meaning of the *Passenger Transport Act 1990*), and
- (d) traffic control facilities (as defined by the *Transport Administration Act 1988*), RMS road safety training facilities and safety works.

**RMS** means the Roads and Maritime Services of New South Wales.

**road corridor** means land that is used for the purposes of a road or road infrastructure facilities or for maintaining or constructing a road or road infrastructure facilities and that is owned or managed by the RMS or council.

**Asela Atapattu**

**Director Environmental Solutions (CLR)**

**Environment Protection Authority**

**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the ARTC excavated material is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of ARTC excavated material remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3686)



# **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The ARTC waste timbers exemption 2019**

### **Introduction**

This exemption:

- Is issued by the NSW Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of ARTC waste timbers or blended ARTC waste timbers from certain requirements under the Protection of the Environment Operations Act 1997 (POEO Act) and Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the ARTC waste timbers order 2019'.

### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to ARTC waste timbers. In this exemption, ARTC waste timbers means turnout timbers, transoms and timber sleepers that:
- (a) have been sourced from ARTC Inland Rail Network or from ARTC Railway Network as defined in Environment Protection Licence (EPL) 3142;
  - (b) have been generated from ARTC re-sleeping programs and emergency track work;
  - (c) have not been sourced from the Armidale – Werris Creek Line;
  - (d) have not been sourced from locations within the ARTC Contaminated Land Database; and
  - (e) meet all the criteria of the ARTC Waste Timber Separation and Management Protocol (Attachment 1).

### **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies, or intends to apply, ARTC waste timbers or blended ARTC waste timbers to land as set out in 1.1.

### **3. Duration**

- 3.1. This exemption commences on 12 December 2019 and is valid until 12 December 2021, or unless revoked by the EPA in writing at an earlier date.

### **4. Premises to which this exemption applies**

- 4.1. This exemption applies to the premises at which the consumer's actual or intended land application of ARTC waste timbers or blended ARTC waste timbers is carried out.

### **5. Exemption**

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual, or intended application, of ARTC waste timbers or blended ARTC waste timbers to land in civil engineering structures or as a soil amendment or as input to compost;
- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where ARTC waste timbers or blended ARTC waste timbers is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **6. Conditions of exemption**

The exemption is subject to the following conditions:

- 6.1. At the time ARTC waste timbers or blended ARTC waste timbers are received at the premises, it must meet all chemical and other material requirements for ARTC waste timbers or blended ARTC waste timbers which are required under 'the ARTC waste timbers order 2019'.
- 6.2. ARTC waste timbers or blended ARTC waste timbers can only be applied to land in civil engineering structures or as a soil amendment or as an input into compost.
- 6.3. The consumer must not undertake further processing of the ARTC waste timbers or blended ARTC waste timbers at the land application site.
- 6.4. The consumer must ensure that any application of ARTC waste timbers or blended ARTC waste timbers to land must occur within a reasonable period of time after receipt.

## 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply, ARTC waste timbers or blended ARTC waste timbers to land.

**yard** means a system of tracks not designated as part of the defined interstate railway network, used for loading or unloading trains or for other purposes

**Kathy Giunta**  
**Director Resource Recovery Policy**  
**Environment Protection Authority**  
**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not ARTC waste timbers or blended ARTC waste timbers is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of ARTC waste timbers or blended ARTC waste timbers remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3687)



# Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

## The Boral engineered glass sand exemption August 2020

### Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Boral engineered glass sand from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Boral engineered glass sand order August 2020'.

### 1. Waste to which this exemption applies

- 1.1. This exemption applies to Boral engineered glass sand that is, or is intended to be, applied to land for the purpose of pipe bedding, drainage, compaction sand or road making activities, or for inclusion in concrete or asphalt.
- 1.2. Boral engineered glass sand means a blend of:
  - 1.2.1. recovered glass sand that meets all conditions of the 'recovered glass sand order 2014', and
  - 1.2.2. recovered aggregate that meets all conditions of the 'recovered aggregate order 2014' and has been produced at the Boral Recycling facility in Kooragang (EPL: 11968); and/or
  - 1.2.3. tunnel spoil generated by major infrastructure projects, for which a resource recovery order and exemption has been granted; and/or
  - 1.2.4. virgin quarried sand; and/or
  - 1.2.5. virgin quarried sandstone; and/or
  - 1.2.6. virgin excavation natural material (VENM) as defined in the Protection of the Environment Operations Act 1997 (POEO Act).

## **2. Persons to whom this exemption applies**

- 2.1. This exemption applies any person who applies, or intends to apply, the Boral engineered glass sand to land as set out in section 1.

## **3. Revocation**

- 3.1. The “Boral engineered glass sand exemption 2020”, which commenced on 8 April 2020, is revoked from 10 August 2020.

## **4. Duration**

- 4.1. This order commences on 10 August 2020 and is valid until 28 May 2022 unless revoked by the EPA in writing.

## **5. Premises to which this exemption applies**

- 5.1. This exemption only applies to the premises at which the consumer’s actual or intended application of Boral engineered glass sand is carried out.

## **6. Exemption**

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer’s actual or intended application of Boral engineered glass sand to land as pipe bedding, drainage, or road making activities, or included in concrete or asphalt at the premises:
  - section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 6.2. The exemption does not apply in circumstances where Boral engineered glass sand is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 ‘waste disposal (application to land)’ or clause 40 ‘waste disposal (thermal treatment)’ of Schedule 1 of the POEO Act.

## **7. Conditions of exemption**

The exemption is subject to the following conditions:

- 7.1. At the time the Boral engineered glass sand is received at the premises, the material must meet all chemical and other material requirements for Boral engineered glass sand which are required on or before the supply of Boral engineered glass sand under ‘the Boral engineered glass sand order August 2020’.
- 7.2. The Boral engineered glass sand can only be applied to land for the purpose of pipe bedding, drainage, compaction sand or road making activities, or for inclusion in concrete or asphalt.
- 7.3. This approval does not apply to the application of Boral engineered glass sand as engineering fill, in earthworks, or on private land, unless:
  - 7.3.1. the Boral engineered glass sand is applied only to the minimum extent necessary for the construction of the road, and



- 7.3.2. a development consent has been granted under the relevant Environmental Planning Instrument (EPI), or
  - 7.3.3. the road provides access (temporary or permanent) to a development approved by a Council, or
  - 7.3.4. the works are either an exempt or complying development.
- 7.4. The consumer must keep a written record of the following for a period of six years:
- the quantity of any Boral engineered glass sand received; and
  - the name and address of the supplier of the Boral engineered glass sand received.
- 7.5. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 7.6. The consumer must ensure that any application of Boral engineered glass sand to land must occur within a reasonable period of time after its receipt.

## 8. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**compaction sand** means Boral engineered glass sand that meets the required properties and is land applied in a manner that complies with a relevant Australian Standard or with a relevant Government-referenced specification (for example, the *Roads and Maritime Services (RMS) QA Specification R11 for Stormwater Drainage*, or the *Sydney Water Technical Specification Civil*).

**consumer** means a person who applies, or intends to apply, Boral engineered glass sand to land.

**Director Environment Solution (CLR)**  
**Environment Protection Authority**  
**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption.

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the Boral engineered glass sand is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of Boral engineered glass sand remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3688)



# Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

## The Carbon Mate bentonite compost exemption December 2019

### Introduction

This exemption:

- is issued by the NSW Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Carbon Mate bentonite compost from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Carbon Mate bentonite compost order December 2019'.

### 1. Waste to which this exemption applies

- 1.1. This exemption applies to Carbon Mate bentonite compost that is, or is intended to be, **applied to land** as a soil amendment.
- 1.2. **Carbon Mate bentonite compost** is any combination of mulch, garden organics, food waste, manure, paunch and **ROBE spent sodium bentonite** that has undergone **composting** at Carbon Mate Organics Recycling.

### 2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies, or intends to apply, Carbon Mate bentonite compost to land as set out in 1.1.

### 3. Duration

- 3.1. This exemption commences on 19 December 2019 and is valid until 1 December 2021 or until revoked by the EPA by notice published in the Government Gazette at an earlier date.

## 4. Premises to which this exemption applies

- 4.1. This exemption applies to the premises at which the consumer's actual, or intended, application of Carbon Mate bentonite compost is carried out.

## 5. Exemption

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of Carbon Mate bentonite compost to land as a soil amendment at the premises:
  - (a) section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - (b) Part 4 of the Waste Regulation;
  - (c) section 88 of the POEO Act; and
  - (d) clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where Carbon Mate bentonite compost is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' of Schedule 1 of the POEO Act.

## 6. Conditions of exemption

The exemption is subject to the following conditions:

- 6.1. At the time Carbon Mate bentonite compost is received at the premises, the material must meet all chemical and other material requirements for Carbon Mate bentonite compost which are required on or before the supply of Carbon Mate bentonite compost under 'the Carbon Mate bentonite compost order December 2019'.
- 6.2. The Carbon Mate bentonite compost can only be applied to land as a soil amendment.
- 6.3. The consumer must ensure that they do not cause or permit the migration of leachate from the land application site.
- 6.4. The consumer must ensure that any application of Carbon Mate bentonite compost to land occurs within a reasonable period of time after its receipt.

## 7. Definitions

In this exemption:

**animal waste** means dead animals and animal parts and any mixture of dead animals and animal parts.

**application or apply to land** means applying to land by:

- (a) spraying, spreading or depositing on the land;
- (b) ploughing, injecting or mixing into the land; or
- (c) filling, raising, reclaiming or contouring the land.

**composting** means a process of managed biological transformation:

- (a) to achieve pasteurisation; and
- (b) for a period of not less than a total of 12 weeks of composting and curing at an adequate moisture level (>40 % by weight), and/or until an equivalent level of biological stability can be demonstrated.

Composting does not include drying or dehydration processes.

**consumer** means a person who applies, or intends to apply, Carbon Mate bentonite compost to land.

**corrosive** means a substance having properties that may damage or destroy living organisms and components of the soil, including soil organic matter. Commonly this includes strong acids and strong bases, or weak acids and weak bases occurring in concentrated form.

**drying or dehydration processes** are those that use externally supplied energy to heat and ventilate food wastes (or any other compostable waste) in order to rapidly dry the waste material over a short time period (typically 24 to 48 hours), either with or without the addition of an inoculum. This is distinct from those processes of managed biological transformation that use heat generated by the aerobic microorganisms that are responsible for decomposition under moist conditions during pasteurisation and composting, and traditional forced aeration composting methods such as aerated static pile composting.

**engineered wood products** means engineered, painted, treated or composite wood products such as particleboard, oriented strand board, plywood, laminated veneer lumber, glulam or fibreboard that are manufactured with glues, resins, water repellents, fire retardants, fungal inhibitors and/or other chemicals.

**food waste** means waste from the manufacture, preparation, sale or consumption of food but does not include grease trap waste or animal waste, and must not be corrosive.

**forestry and sawmill residues** are untreated and uncontaminated plant materials from forestry operations such as logging, silviculture and sawmilling. Forestry and sawmill residues include materials such as bark, woodchip, sawdust and wood fibre that are collected as a source separated material stream for processing.

**garden organics** means plant material that by virtue of the nature and source of the material poses a risk of the presence of physical and chemical contaminants. Garden organics includes material from kerbside waste collections. Garden organics must not contain asbestos, engineered wood products or preservative treated or coated wood residues.

**grease trap waste** means any grease, oils, solids, water or other matter resulting only from the preparation or manufacturing of food that is collected in a grease trap in the usual course of the operation of the grease trap. This definition includes dissolved air flotation (DAF) units used to treat grease trap waste, but does not include grease trap waste collected from grease traps in hospitals and shopping centres other than those solely from the preparation of food.

**manure** means faecal matter generated by any animal other than humans and includes any mixture of animal faecal matter and biodegradable animal bedding such as straw or sawdust.

**mulch** means plant material shredded and/or screened to a preferred particle size grading for particular applications. Mulch, by virtue of the nature and source of the plant material, must pose minimal risk of the presence of physical and chemical contaminants. Mulch may include urban wood residues and forestry and sawmill residues. Mulch does not include plant material from kerbside waste collections. Mulch must not contain asbestos, engineered wood products, preservative treated or coated wood residues, or physical contaminants, including but not limited to glass, metal, rigid plastics, flexible plastics, or polystyrene.

**pasteurisation** means a process to significantly reduce the numbers of plant and animal pathogens, and plant propagules. Pasteurisation requires that the entire mass of organic material be:

- (a) Placed in a free-standing pile with all exposed surfaces covered by at least 300mm of biologically stabilised compost that is aerated by a fan/blower providing air through perforated pipes located underneath the pile to maintain an internal temperature greater than 55°C and an oxygen level greater than 5% for a period of at least 15 days.
- (b) An alternative process of pasteurisation that guarantees the same level of pathogen reduction, and the reduction of plant propagules as in (a). Any such alternative process must be clearly defined in writing and validated by a suitably qualified person prior to claiming compliance with this order. A written record of the validation report must be kept for a minimum period of six years.

**paunch** means the undigested food contained in the stomach of ruminant animals. This is generally considered to include partially digested grass, hay and other feed products such as grain.

**processor** means a person who processes, mixes, blends, or otherwise incorporates Carbon Mate bentonite compost into a material in its final form for supply to a consumer. The processor is Carbon Mate Organics Recycling 132 Ashfords Road Wagga Wagga NSW 2650, Environment Protection Licence 11998.

**preservative treated or coated wood residues** means wood residues that are preservative treated with chemicals such as copper chrome arsenate (CCA), high temperature creosote (HTC), pigmented emulsified creosote (PEC) and light organic solvent preservative (LOSP) and/or coated with substances such as varnish or paint.

**ROBE spent sodium bentonite** means approximate 2,000 tonnes of spent sodium bentonite no longer suitable for stockfeed use stockpiled at Riverina Oils and BioEnergy Pty Ltd 177 Trahairs Rd BOMEN NSW 2650, Environment Protection Licence 13097.

**urban wood residues** mean untreated, unpainted, and uncontaminated urban derived timber and wood material that is collected as a separate material stream for processing. Urban wood residues include materials such as off-cuts, saw dust, wood shavings, packaging crates and pallets.

**A/Director Office of the CEO  
Environment Protection Authority  
(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not Carbon Mate bentonite compost is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert scientific or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s). The consumer should ensure that Carbon Mate bentonite compost containing restricted animal material (RAM) is stored in a location that is inaccessible to ruminants and applied to land in a way that ruminants will not ingest it when accessed.

The receipt of Carbon Mate bentonite compost remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Whilst 'the Carbon Mate bentonite compost order December 2019' requires that Carbon Mate bentonite compost must not contain engineered wood products, the EPA recognises that compost may contain extremely low and incidental amounts of engineered wood products. The processor must implement procedures to prevent the presence of engineered wood products in spent sodium bentonite compost. These procedures must be formally documented and their implementation demonstrated. Spent sodium bentonite compost, however, must not contain any asbestos, or preservative treated or coated wood residues.

'The Carbon Mate bentonite compost order December 2019' does not require sampling and testing of Carbon Mate bentonite compost for biological stability and maturity. However the EPA strongly encourages the land application of compost that contains stable organic matter content and an absence of phytotoxic compounds and pathogens. Immature and poorly stabilised compost can potentially generate offensive odours, contain viable plant propagules and cause initial adverse impacts on plant growth following land application.

Carbon Mate bentonite compost that meets the conditions of this exemption should be applied to land by the consumer within 2 weeks of being received. Where there are extenuating circumstances Carbon Mate bentonite compost should be land applied within 4 weeks. The EPA considers that 6 weeks would be the absolute limit in all circumstances.

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3689)





## **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

### **The EarthPower dewatered digestate exemption July 2020**

#### **Introduction**

This exemption:

- is issued by the NSW Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of EarthPower dewatered digestate from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of EarthPower dewatered digestate to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with the 'EarthPower dewatered digestate order July 2020'.

#### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to EarthPower dewatered digestate, which is, or is intended to be, applied to land as a soil amendment.
- 1.2. In this exemption, EarthPower dewatered digestate means source segregated food waste and grease trap waste that has undergone processing as follows at EarthPower Technologies Sydney Pty Ltd (EarthPower):
  - (a) wet pre-treatment using a Hydro-mechanical BTA® process to separate organic solids and remove physical contaminants;
  - (b) solid organics from pre-treatment mixed with liquid food waste and grease trap waste in the surge tank;
  - (c) anaerobic digestion for 4 to 6 weeks at 36-39°C to form stabilised digestate;
  - (d) additional physical contaminant removal using a strain press; and
  - (e) polymer assisted, centrifugal dewatering of stabilised digestate in decanter.

#### **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies, or intends to apply, EarthPower dewatered digestate to land as set out in 1.1.

### **3. Duration**

- 3.1. This exemption commences on 20 July 2020 and is valid until 20 July 2022, unless revoked by the EPA by notice published in the Government Gazette at an earlier date.

### **4. Premises to which this exemption applies**

- 4.1. This exemption applies to premises at which the consumer's actual or intended application of EarthPower dewatered digestate is carried out.

### **5. Revocation**

- 5.1 'The EarthPower dewatered digestate exemption July 2018' which commenced on 19 July 2018 is revoked from 20 July 2020.

### **6. Exemption**

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of EarthPower dewatered digestate to land as a soil amendment at the premises:
  - 6.1.1. section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - 6.1.2. Part 4 of the Waste Regulation;
  - 6.1.3. section 88 of the POEO Act; and
  - 6.1.4. clause 109 and 110 of the Waste Regulation.
- 6.2. The exemption does not apply in circumstances where EarthPower dewatered digestate is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **7. Conditions of exemption**

The exemption is subject to the following conditions:

#### **General conditions**

- 7.1. At the time the EarthPower dewatered digestate is received at the premises, the material must meet all chemical and other material requirements which are required on or before the supply of EarthPower dewatered digestate under 'the EarthPower dewatered digestate order July 2020'.
- 7.2. The EarthPower dewatered digestate can only be applied to land as a soil amendment.
- 7.3. Earthpower dewatered digestate must not be applied to land for growing horticultural and other food crops unless (i) the dewatered digestate is incorporated with the soil, (ii) the amended soil has no contact with the edible portion of the crop, and (iii) there is a period of at least 30 days between incorporation of the dewatered digestate into the soil and harvesting the crop.
- 7.4. The consumer must ensure that the EarthPower dewatered digestate is appropriately contained on receipt at the land application site, such that leaching or run-off of waste is prevented prior to land application. The containment must also ensure minimal risk of exposure to vectors (animals, birds and insects).

- 7.5. The EarthPower dewatered digestate must not flow off-site either by means of surface or lateral sub-surface flow.
- 7.6. EarthPower dewatered digestate must not be applied to:
- 7.6.1. Soil having a pH of less than 5.0 when measured in a 1:5 soil:water extract, or
- 7.6.2. Land in areas where the site characteristics specified in Column 1 of Table 1 do not comply with the requirements listed in Column 2 of Table 1, or
- 7.6.3. Land that is within the buffer zones for the protected areas specified in Table 2.

**Table 1 Landform and soil requirements for the application site**

Column 1	Column 2
Site characteristic	Requirement
Slope	<10 %
Drainage	No application of EarthPower dewatered digestate permitted in: - Waterlogged soil; and/or - Slow or highly permeable soil
Depth to bedrock	> 60 cm
Surface rock outcrop	<10 %

**Table 2 Buffer zones for protected areas**

Column 1	Column 2	Column 3	Column 4
Protected Area	Minimum width of buffer zones (m)		
	Flat (<3% or 2° slope)	Downslope (> 3% or 2° slope)	Upslope
Surface waters	50	100	5
Drinking water bores	250	250	250
Other bores	50	50	50
Farm dams <sup>1</sup>	20	30	5
Farm driveways and fence lines	5	5	5
Native forests & other significant vegetation types	10	10	5
Animal enclosures	25	50	25
Occupied dwelling	50	100	50
Residential zone	250	500	250

<sup>1</sup> Buffer zones to other drainage features in the landscape, including drainage depressions, may be required to minimise run-off contaminating protected areas both on and off site.

- 7.7. The consumer must evenly apply EarthPower dewatered digestate to land across the designated land application area, and the application rate must not exceed 17 wet tonnes/hectare per annum.
- 7.8. The consumer must ensure that any application of EarthPower dewatered digestate to land must occur within a reasonable period of time after its receipt.
- 7.9. The consumer must apply a livestock-withholding period of a minimum of 30 days following the land application of EarthPower dewatered digestate. This

period may need to be extended if there has not been adequate pasture growth and rainfall so ruminants and other animals do not ingest EarthPower dewatered digestate or amended soil when grazing.

- 7.10. Where the EarthPower dewatered digestate is land applied within 4 weeks of any other waste, an investigation to determine the suitability of the proposed application must be undertaken prior to the waste being received at the application site. A report must be prepared including but not necessarily limited to, information detailing how the receiving site will benefit from multiple wastes being applied, how the matrices and constituents of the different wastes will interact, and what application rates will be appropriate to minimise the potential for environmental harm. The investigation should determine whether the land application will deliver a net benefit. Where a net benefit is not demonstrated the land application of the waste must not proceed. A written record of the report must be kept for a minimum period of six years.

### **Record keeping and reporting**

- 7.11. The consumer must keep a written record of the following for a period of six years:
  - 7.11.1. the quantity of EarthPower dewatered digestate received;
  - 7.11.2. the location(s) where the EarthPower dewatered digestate has been applied including the address and paddock or plot identification;
  - 7.11.3. the rate(s) at which the EarthPower dewatered digestate was applied at each location as defined above; and
  - 7.11.4. the date(s) on which the EarthPower dewatered digestate was applied at each location as defined above.
- 7.12. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.

## **8. Sampling and testing requirements**

- 8.1. Prior to receiving and land applying EarthPower dewatered digestate the consumer must sample the soil to which the EarthPower dewatered digestate is to be applied by taking the following randomly located samples from both the A horizon and the B horizon:
  - 8.1.1. For land equal to, or less than 10 hectares – 2 composite samples, and
  - 8.1.2. For land greater than 10 hectares – 1 composite sample per 10 hectares.
- 8.2. The soil where the EarthPower dewatered digestate has been applied to land must be resampled and retested by the consumer as set out in condition 8.1 prior to receiving or land applying any additional EarthPower dewatered digestate.
- 8.3. Prior to receiving and land applying the EarthPower dewatered digestate the consumer must ensure that:
  - 8.3.1. Each of the composite samples referred to in condition 8.1 are tested for the cation exchange capacity (CEC), exchangeable sodium percentage (ESP), pH and electrical conductivity (EC).

### **Test methods**

- 8.4. The consumer must ensure that any testing of samples required by this exemption is undertaken by analytical laboratories accredited by the National Association of Testing Authorities (NATA) or equivalent.

- 8.5. The consumer must ensure that the soil attributes listed in 8.3.1 are tested in accordance with the test methods specified below or other equivalent analytical methods. Where an equivalent analytical method is used, the detection limit must be equal to or less than that nominated for the given method below.
- 8.5.1. Test method for measuring CEC and ESP from 'Soil Chemical Methods – Australasia', (Rayment, G.E. and Lyons, D.J. 2011).
- 8.5.1.1. Exchangeable bases and CEC using an appropriate method from 15B1-15B3, 15C1, 15D1, or 15D2.
- 8.5.1.2. ESP calculated using method 15N1 ensuring that exchangeable Na and CEC are determined using the same method.
- 8.5.2. Test method for measuring pH and electrical conductivity from 'Soil Chemical Methods – Australasia', (Rayment, G.E. and Lyons, D.J. 2011).
- 8.5.2.1. Prepare a 1:5 soil/water suspension using Method 3A1 Electrical Conductivity (EC).
- 8.5.2.2. Analyse for EC (first) and then pH using method 3A1 for EC and method 4A1 for pH.
- 8.5.2.3. Report EC (dS/m) and pH on an air-dry basis.

**Notification**

- 8.6. On or before each transaction, the consumer must provide a written statement of compliance to EarthPower certifying that all the sampling and testing requirements set out in condition 8 of this exemption have been met.

## 9. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply, EarthPower dewatered digestate to land.

**ruminant** means an animal that has a rumen including, but not limited to, alpacas, camels, cattle, deer, goats and sheep as defined in clause 38 of the *Biosecurity Regulation 2017*.

**food waste** means food waste from the manufacture, preparation, sale or consumption of food but does not include grease trap waste or animal waste.

**grease trap waste** means any grease, oils, solids, water or other matter resulting only from the preparation or manufacturing of food that is collected in a grease trap in the usual course of the operation of the grease trap. This definition includes dissolved air flotation (DAF) units used to treat grease trap waste but does not include grease trap waste collected from grease traps in hospitals and shopping centres other than those solely from the preparation of food.

**transaction means:**

- in the case of a one-off supply, the supply of a batch, or truckload of EarthPower dewatered digestate that is not repeated,
- in the case where the supplier has an arrangement with the recipient for more than one supply of EarthPower dewatered digestate the first supply of EarthPower dewatered digestate as required under the arrangement.

**A/Director Environmental Solutions (CLR)  
Environment Protection Authority  
(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health and agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

Dewatered digestate may contain high levels of sodium and other salts. The consumer should assess whether the dewatered digestate is fit for the purpose for which it is proposed to be used, and whether this use will cause harm. The application of dewatered digestate may not be advisable on certain soils. The consumer may need to seek expert scientific advice.

The receipt of EarthPower dewatered digestate remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met when land applying this material, including, but not limited to the *Biosecurity Act 2015*. For example, the consumer must not allow EarthPower dewatered digestate to be fed to or come into contact with pigs or ruminants in accordance with the *Biosecurity Act 2015* and *Biosecurity Regulation 2017*.

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3690)



## **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

### **The EarthPower organic prills exemption July 2020**

#### **Introduction**

This exemption:

- is issued by the NSW Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of EarthPower organic prills from certain requirements under the Protection of the Environment Operations Act 1997 (POEO Act) and the Waste Regulation in relation to the application of EarthPower organic prills to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with the 'EarthPower organic prills order July 2020'.

#### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to Earthpower organic prills, which are, or are intended to be, applied to land as a soil amendment.
- 1.2. EarthPower organic prills mean spherical granular pellets made by EarthPower Technologies Sydney Pty Ltd (EarthPower) from source segregated food waste and grease trap waste that has undergone processing according to the following specifications:
  - (a) wet pre-treatment using a Hydro-mechanical BTA® process to separate organic solids and remove physical contaminants;
  - (b) solid organics from pre-treatment mixed with liquid food waste and grease trap waste in the surge tank;
  - (c) anaerobic digestion for 4 – 6 weeks at 36-39°C to form stabilised digestate;
  - (d) additional physical contaminant removal using a strain press;
  - (e) polymer assisted, centrifugal dewatering of stabilised digestate in decanter;
  - (f) drying at 400 - 600°C using Flo-Dryer; and
  - (g) size screening to 2 – 4mm.



## **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies, or intends to apply, Earthpower organic prills to land as set out in 1.1.

## **3. Duration**

- 3.1. This exemption commences on 21 July 2020 and is valid until 21 July 2022 unless revoked by the EPA by notice published in the Government Gazette at an earlier date.

## **4. Premises to which this exemption applies**

- 4.1. This exemption applies to premises at which the consumer's actual or intended application of Earthpower organic prills is carried out.

## **5. Revocation**

- 5.1 'The EarthPower organic prills exemption July 2018' which commenced on 20 July 2018 is revoked from 21 July 2020.

## **6. Exemption**

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of EarthPower organic prills to land as a soil amendment at the premises:
  - 6.1.1. section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - 6.1.2. Part 4 of the Waste Regulation;
  - 6.1.3. section 88 of the POEO Act; and
  - 6.1.4. clause 109 and 110 of the Waste Regulation.
- 6.2. The exemption does not apply in circumstances where EarthPower organic prills are received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

## **7. Conditions of exemption**

The exemption is subject to the following conditions:

### **General conditions**

- 7.1. At the time the EarthPower organic prills are received at the premises, the material must meet all chemical and other material requirements which are required on or before the supply of EarthPower organic prills under 'the EarthPower organic prills order July 2020'.
- 7.2. The EarthPower organic prills can only be applied to land as a soil amendment.
- 7.3. The consumer must ensure that the Earthpower organic prills are appropriately contained on receipt at the land application site, such that leaching or run-off of waste is prevented prior to land application. The

containment must also ensure minimal risk of exposure to vectors (animals, birds and insects).

- 7.4. The consumer must not allow EarthPower organic prills to be fed to or come into contact with pigs or ruminants.
- 7.5. EarthPower organic prills must not be applied to:
  - 7.5.1. soil having a pH of less than 5.0 when measured in a 1:5 soil:water dilution.
  - 7.5.2. soil with an exchangeable sodium percentage (ESP) of greater than 6.
  - 7.5.3. soil with an electrical conductivity of saturated extract (ECe)\* of greater than 4 dS/m.
  - 7.5.4. land that is within the buffer zones for the protected areas specified in Table 1.

**Table 1 Buffer zones for protected areas**

Column 1	Column 2	Column 3	Column 4
Protected Area	Minimum width of buffer zones (m)		
	Flat (<3% or 2° slope)	Downslope (> 3% or 2° slope)	Upslope
Surface waters	50	100	5
Drinking water bores	250	250	250
Other bores	50	50	50

**Additional Agricultural Conditions**

- 7.6. The consumer must evenly apply EarthPower organic prills to land across the designated land application area, and the application rate must not exceed 2 tonnes/hectare per annum.
- 7.7. The consumer must ensure that any application of EarthPower organic prills to agricultural land occurs within a reasonable period of time after its receipt.
- 7.8. The consumer must apply a livestock-withholding period of 90 days following the land application of EarthPower organic prills.
- 7.9. When used on agricultural land, the consumer must keep a written record of the following for a period of six years:
  - 7.9.1. the quantity of Earthpower organic prills received; and
  - 7.9.2. the location(s) where the Earthpower organic prills are applied including the address and paddock or plot identification.
  - 7.9.3. the rate(s) at which the Earthpower organic prills are applied at each location as defined above.
  - 7.9.4. the date(s) on which the Earthpower organic prills are applied at each location as defined above.
- 7.10. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.

\*ECe can be calculated using a multiplication factor based on soil texture

## 8. Definitions

In this exemption:

**agricultural land** means land where the current or future use is for the purposes of agriculture which includes horticulture, turf and any purpose of husbandry. This includes keeping or breeding livestock, poultry or bees, and growing fruit, vegetables, field crops or pastures.

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply, EarthPower organic prills to land.

**ruminant** means an animal that has a rumen including, but not limited to, alpacas, camels, cattle, deer, goats and sheep as defined in clause 38 of the *Biosecurity Regulation 2017*.

**food waste** means food waste from the manufacture, preparation, sale or consumption of food but does not include grease trap waste or animal waste.

**grease trap waste** means any grease, oils, solids, water or other matter resulting only from the preparation or manufacturing of food that is collected in a grease trap in the usual course of the operation of the grease trap. This definition includes dissolved air flotation (DAF) units used to treat grease trap waste but does not include grease trap waste collected from grease traps in hospitals and shopping centres other than those solely from the preparation of food.

**A/Director Environmental Solutions (CLR)  
Environment Protection Authority  
(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health and agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of EarthPower organic prills remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met when land applying this material, including, but not limited to the *Biosecurity Act 2015 and Biosecurity Regulation 2017*.

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3691)



# Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

## The JJ Richards Glendenning treated grease trap waste exemption 2020

### Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of treated grease trap waste from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the JJ Richards Glendenning treated grease trap waste order 2020'.

### 1. Waste to which this exemption applies

- 1.1. This exemption applies to treated grease trap waste that is, or is intended to be, applied to land as a soil amendment.
- 1.2. Treated grease trap waste means grease trap waste that has undergone treatment according to the following:
  - screening to remove physical contaminants;
  - leaving the grease trap waste to settle by operation of gravity for at least four hours, so that the floating fats and oils, the aqueous liquid waste and the settleable portions of the grease trap waste separate; and
  - the floating layer must either be removed or be incorporated into the bottom settled layer following saponification by the addition of lime.

### 2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies, or intends to apply, treated grease trap waste to land as set out in 1.1.

### 3. Duration

- 3.1. This exemption commences on 11 August 2020 and is valid until 11 August 2022.

## 4. Premises to which this exemption applies

- 4.1. This exemption applies to the premises at which the consumer's actual or intended application to land of treated grease trap waste is carried out.

## 5. Exemption

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of treated grease trap waste to land as a soil amendment at the premises:
- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where treated grease trap waste is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

## 6. Conditions of exemption

The exemption is subject to the following conditions:

- 6.1. At the time the treated grease trap waste is received at the premises, the material must meet all chemical and other material requirements for treated grease trap waste which are required on or before the supply of treated grease trap waste under 'the JJ Richards Glendenning treated grease trap waste order 2020'.
- 6.2. The treated grease trap waste can only be applied to land as a soil amendment.
- 6.3. Where the oil and grease content of the treated grease trap waste is 50% or greater the consumer must ensure that the application rate does not exceed 100 t/ha (wet weight) at any location. Where the oil and grease content of the treated grease trap waste is measured at less than the values listed in Column 1 of Table 1 the consumer may apply the material at a rate up to the corresponding rate in Column 2 of Table 1.

**Table 1**

Column 1	Column 2
Oil and grease content (%)	Maximum application rate (wet t/ha )
<50	120
<40	150
<30	200
<20	300
<10	600

- 6.4. The consumer must ensure that at the time of application the treated grease trap waste is injected into the soil at a depth of between 10cm and 30cm below the soil surface.

- 6.5. The consumer must ensure that the treated grease trap waste does not flow across the surface of the land.
- 6.6. The consumer must ensure that treated grease trap waste is not applied to land in areas where the site characteristics specified in Column 1 of Table 2 do not comply with the requirements listed in Column 2 of Table 2.

**Table 2**

Column 1	Column 2
Site Characteristic	Requirement
Slope	< 10%
Drainage	No application of wastes permitted in: - Waterlogged soil; and/or - Slow or highly permeable soil
Depth to bedrock	> 60 cm
Surface rock outcrop	< 10%

- 6.7. The consumer must ensure that treated grease trap waste is not applied to land within the buffer zones for protected areas specified in Table 3.

**Table 3**

Column 1	Column 2	Column 3	Column 4
Protected Area	Minimum width of Buffer Zones (m)		
	Flat (< 3% or 2° slope)	Downslope (> 3% or 2° slope)	Upslope
Surface waters	50	100	5
Farm dams	20	30	5
Drinking water bores	250	250	250
Other bores	50	50	50
Farm driveways and fence lines	5	5	5
Native forests and other significant vegetation types	10	10	5
Animal enclosures	25	50	25
Occupied dwelling	50	100	50
Residential zone	250	500	250

- 6.8. The consumer must ensure that livestock are withheld from all land which has had treated grease trap waste applied for a period of 30 days following application.
- 6.9. The consumer must keep a written record of the following for a period of six years:
- the quantity of any treated grease trap waste received; and
  - the name and address of the supplier of the treated grease trap waste received.
- 6.10. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.

6.11. The consumer must ensure that any application of treated grease trap waste to land must occur within a reasonable period of time after its receipt.

## 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply, treated grease trap waste to land.

**grease trap waste** means any grease, oils, solids, water or other matter resulting only from the preparation or manufacturing of food that is collected in a grease trap in the usual course of the operation of the grease trap. This definition includes dissolved air flotation (DAF) units used to treat grease trap waste, but does not include grease trap waste collected from grease traps in hospitals and shopping centres other than those solely from the preparation of food.

**Director Environmental Solutions (CLR)**  
**Environment Protection Authority**  
**(by delegation)**



## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the treated grease trap waste is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of treated grease trap waste remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3692)



# **Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The Sydney Steel Mill rubber injectant order June 2020**

### **Introduction**

This order, issued by the NSW Environment Protection Authority (EPA) under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), imposes the requirements that must be met by suppliers of Sydney Steel Mill rubber injectant to which 'The Sydney Steel Mill rubber injectant exemption June 2020' applies. The requirements in this order apply in relation to the supply of Sydney Steel Mill rubber injectant for use in connection with a process of thermal treatment as an alternative input into the manufacture of steel products.

### **1. Waste to which this order applies**

- 1.1. The order applies to Sydney Steel Mill rubber injectant. In this order, Sydney Steel Mill rubber injectant means a material comprising of either natural or synthetic rubber that is free of visual contamination. Rubber must have a carbon content of greater than 50%. Small quantities (less than 2% by volume) of nylon and steel wire can be present in the rubber if used tyre shreds are utilised.

### **2. Persons to whom this order applies**

- 2.1. The requirements in this order apply, as relevant, to any person who supplies Sydney Steel Mill rubber injectant that has been generated, processed or recovered by the person.
- 2.2. This order does not apply to the supply of Sydney Steel Mill rubber injectant to a consumer for land application at a premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

### **3. Duration**

- 3.1. This order commences on 26 June 2020 and is valid until 24 June 2022 unless revoked by the EPA at an earlier date.

### **4. Revocation**

- 4.1. 'The OneSteel rubber injectant order June 2018' which commenced on 23 June 2018, is revoked from 26 June 2020.

## 5. Generator requirements

The EPA imposes the following requirements on any generator who supplies Sydney Steel Mill rubber injectant to a consumer. In this order, the consumer is Infrabuild Steel Sydney Steel Mill 22 Kellogg Road Rooty Hill NSW 2766, Environment Protection Licence (EPL) 6125.

### General requirements

- 5.1. On or before each transaction, the generator must ensure Sydney Steel Mill rubber injectant meets the description provided in clause 1.1.

### Notification

- 5.2. On or before each transaction, the generator must provide a written statement of compliance certifying that all the requirements set out in this order have been met to the consumer to whom the generator supplies Sydney Steel Mill rubber injectant.

### Record keeping and reporting

- 5.3. The generator must keep a written record of the quantity of Sydney Steel Mill rubber injectant supplied and the name and address of each person to whom the generator supplied Sydney Steel Mill rubber injectant to, for a period of six years.

## 6. Definitions

In this order:

**consumer** means a person who uses Sydney Steel Mill rubber injectant in connection with a process of thermal treatment as an alternative input into the manufacture of steel products. In this order, the consumer is Infrabuild Steel Sydney Steel Mill 22 Kellogg Road Rooty Hill NSW 2766, Environment Protection Licence (EPL) 6125.

**generator** means a person who generates or processes Sydney Steel Mill rubber injectant for supply under this order.

**Sydney Steel Mill rubber injectant** means material comprising of either natural or synthetic rubber that is free of visual contamination. Rubber must have a carbon content of greater than 50%. Small quantities (less than 2%) of nylon and steel wire can be present in the rubber if used tyre shreds are utilised.

**thermal process** means the processing of wastes by burning, incineration, thermal oxidation, gasification, pyrolysis, plasma or other thermal treatment processes.

**transaction** means:

- in the case of a once-off supply, the supply of a batch, truckload or stockpile of Sydney Steel Mill rubber injectant that is not repeated.
- in the case where the supplier has an arrangement with the recipient for more than one supply of Sydney Steel Mill rubber injectant, the first supply of Sydney Steel Mill rubber injectant as required under the arrangement.

**Director Environmental Solutions (CLR)**

**Environment Protection Authority**

**(by delegation)**

## Notes

The EPA may amend or revoke this order at any time. It is the responsibility of the generator to ensure it complies with all relevant requirements of the most current order.

In gazetting or otherwise issuing this order, the EPA is not in any way endorsing the supply or use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this order are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this order nor the accompanying exemption guarantee that the environment, human health or agriculture will not be harmed.

Any person or entity which supplies Sydney Steel Mill rubber injectant should assess whether the material is fit for the purpose it is proposed to be used for, and whether this use will cause harm. The supplier may need to seek expert technical advice.

Regardless of any exemption or order provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The supply of Sydney Steel Mill rubber injectant remains subject to other relevant environmental regulations in the POEO Act and Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of this order, is guilty of an offence and subject to prosecution.

This order does not alter the requirements of any other relevant legislation that must be met in supplying this material, including for example, the need to prepare a Safety Data Sheet.

Failure to comply with the conditions of this order constitutes an offence under clause 90 and 91 of the Waste Regulation.

Reference number:(n2020-3693)



# **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The Sydney Holcim concrete washout exemption 2019**

### **Introduction**

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Sydney Holcim concrete washout from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'The Sydney Holcim concrete washout order 2019'.

### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to Sydney Holcim concrete washout that is, or is intended to be, applied to land for road making activities, building, landscaping and construction works.
- 1.2. Sydney Holcim concrete washout means waste concrete and fines washed out of concrete trucks and dried. The concrete washout originates from:
  - Holcim Alexandria (132 Euston Road, Alexandria NSW 2015);
  - Holcim Artamon (8 Marden Street, Artamon NSW 2064);
  - Holcim Blacktown (70 Tattersal Road, Blacktown 2148);
  - Holcim Brookvale (18 William Street, Brookvale NSW 2100);
  - Holcim Camelia (1 Grand Avenue, North Camellia NSW 2142);
  - Holcim Caringbah (20 Parraweena Road, Caringbah NSW 2229);
  - Holcim Emu Plains (Kite Street, Emu Plains NSW 2750);
  - Holcim Hornsby/Thornleigh (12 Chilvers Road, Thornleigh NSW 2120);
  - Holcim Hurstville (156 Bellevue Parade, Hurstville 2220);

- Holcim Lidcombe (40 Birnie Avenue, Lidcombe NSW 2141);
- Holcim Liverpool (28 Regent Crescent, Moorebank NSW 2170);
- Holcim Narellan (Lot 9 Graham Hill Road, Narellan NSW 2567);
- Holcim Pendle Hill (154a Bungaree Road, Pendle Hill NSW 2145);
- Holcim Rooty Hill (21 Kellogg Road, Rooty Hill NSW 2766); and
- Holcim Windsor (Lot 10 Fairey Road, Windsor NSW 2756).

## **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies, or intends to apply, Sydney Holcim concrete washout to land as set out in 1.1.

## **3. Duration**

- 3.1. This exemption commences on 16 April 2020 and is valid until 16 April 2021, unless revoked by the EPA by notice in writing at an earlier date.

## **4. Premises to which this exemption applies**

- 4.1. This exemption applies to the premises at which the consumer's actual or intended application of recovered aggregate is carried out.

## **5. Exemption**

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of Sydney Holcim concrete washout to land when used for road making activities, building, landscaping and construction works at the premises:

- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
- Part 4 of the Waste Regulation;
- section 88 of the POEO Act; and
- clause 109 and 110 of the Waste Regulation.

- 5.2. The exemption does not apply in circumstances where Sydney Holcim concrete washout is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

## **6. Conditions of exemption**

The exemption is subject to the following conditions:

- 6.1. At the time the Sydney Holcim concrete washout is received at the premises, the material must meet all chemical and other material requirements for Sydney Holcim concrete washout which are required on or before the supply of Sydney Holcim concrete washout under 'the Sydney Holcim concrete washout order 2019'.

- 6.2. The recovered aggregate can only be applied to land in road making activities, building, landscaping and construction works. This approval does not apply to any of the following applications:
- 6.2.1. Construction of dams or related water storage infrastructure,
  - 6.2.2. Mine site rehabilitation,
  - 6.2.3. Quarry rehabilitation,
  - 6.2.4. Sand dredge pond rehabilitation,
  - 6.2.5. Back filling of quarry voids,
  - 6.2.6. Raising or reshaping of land used for agriculture, and
  - 6.2.7. Construction of roads on private land unless:
    - (a) the recovered aggregate is applied only to the minimum extent necessary for the construction of the road, and
    - (b) a development consent has been granted under the relevant Environmental Planning Instrument (EPI), or
    - (c) it is to provide access (temporary or permanent) to a development approved by a Council, or
    - (d) the works are either exempt or complying development.
- 6.3. The consumer must keep a written record of the following for a period of six years:
- the quantity of any Sydney Holcim concrete washout received; and
  - the name and address of the supplier of the Sydney Holcim concrete washout received.
- 6.4. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 6.5. The consumer must ensure that any application of Sydney Holcim concrete washout to land must occur within a reasonable period of time after its receipt.

## 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**consumer** means a person who applies, or intends to apply, Sydney Holcim concrete washout to land.

**processor** means a person who processes, mixes, blends, or otherwise incorporates Sydney Holcim concrete washout into a material in its final form for supply to a consumer. In this exemption, the processor is HOLCIM (AUSTRALIA) Pty Ltd.

**Asela Atapattu**

**Director Environmental Solutions (CLR)**

**Environment Protection Authority**

**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the Sydney Holcim concrete washout is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of Sydney Holcim concrete washout remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3694)





# Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

## The Downer bituminous pavement exemption 2020

### Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Downer bituminous pavement from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Downer bituminous pavement order 2020'.

### 1. Waste to which this exemption applies

- 1.1. This exemption applies to Downer bituminous pavement that is, or is intended to be, applied to land for road construction or road maintenance activities.
- 1.2. Downer bituminous pavement means bituminous pavements that contain TonerPlas or MTP. It may also include reclaimed asphalt pavement that meets the requirements of *The reclaimed asphalt pavement order 2014*, recovered glass sand that meets the requirements of *The Recovered Glass Sand Order 2014*, and crumb rubber from tyres that meets the requirements of *The Recovered Tyres Order 2014*. Downer bituminous pavement may contain up to 0.75% Tonerplas or up to 0.7% MTP for mixed asphalt pavements, and up to 0.15% MTP in sprayed seal pavements.

### 2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies, or intends to apply, Downer bituminous pavement to land as set out in clause 1.

### **3. Revocation**

- 3.1. The “The Downer bituminous pavement exemption November 2019”, which commenced on 20 November 2019, is revoked from 6 May 2020.

### **4. Duration**

- 4.1. This exemption commences on 6 May 2020 and is valid until 5 May 2022 unless revoked by the EPA in writing at an earlier date.

### **5. Premises to which this exemption applies**

- 5.1. This exemption applies to the premises at which the consumer’s actual or intended application of Downer bituminous pavement is carried out.

### **6. Exemption**

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer’s actual or intended application of Downer bituminous pavement to land when used for road making activities:

- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
- Part 4 of the Waste Regulation;
- section 88 of the POEO Act; and
- clause 109 and 110 of the Waste Regulation.

- 6.2. The exemption does not apply in circumstances where Downer bituminous pavement is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 ‘waste disposal (application to land)’ or clause 40 ‘waste disposal (thermal treatment)’ of Schedule 1 of the POEO Act.

### **7. Conditions of exemption**

The exemption is subject to the following conditions:

- 7.1. At the time the Downer bituminous pavement is received at the premises, the material must meet all requirements for Downer bituminous pavement that are required on or before the supply of Downer bituminous pavement under ‘the Downer bituminous pavement order 2020’.
- 7.2. The Downer bituminous pavement can only be applied to land in road construction and road maintenance activities. This approval permits the laying of bituminous pavements on private land, provided:
- 7.2.1. the Downer bituminous pavement is applied only to the minimum extent necessary for the road construction or road maintenance activity (this may, for example, include driveways, access routes and other such pavements), and
  - 7.2.2. the road provides access (temporary or permanent) to a development approved by a Council, or
  - 7.2.3. the works are either an exempt or complying development, or
  - 7.2.4. a development consent has been granted under the relevant Environmental Planning Instrument (EPI).

- 7.3. The consumer must keep a written record of the following for a period of six years:
- the quantity of any Downer bituminous pavement received; and
  - the name and address of the supplier of the Downer bituminous pavement received.
- 7.4. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 7.5. The consumer must ensure that any application of Downer bituminous pavement to land must occur within a reasonable period of time after its receipt.

## 8. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**asphalt** means a solid material typically composed of sand, aggregates and similar materials bound together with bituminous and/or other similar binders.

**consumer** means a person who applies, or intends to apply, Downer bituminous pavement to land.

**Modified Toner Polymer (MTP)** means a granulated material supplied by Tonerplas Pty Ltd (or its successors or assigns) containing:

- waste toner (post-consumer recycled toner powder), and
- waste oil (medium grade engine oils and greases).

**processor** means a person who processes, mixes, blends, or otherwise incorporates Tonerplas or MTP into Downer bituminous pavement for supply to a consumer. The processor in this order is Downer EDI Works Pty Ltd (ABN: 66 008 709 608).

**Tonerplas** means a granulated product containing

- waste toner (post-consumer recycled toner powder),
- waste oil (medium grade engine oils and greases), and
- post-consumer plastic bags and packaging, being predominately low-density polyethylene (LDPE), with some high-density polyethylene (HDPE), polypropylene (PP) and small amount of polyethylene terephthalate (PET).

**Director Environmental Solutions (CLR)**  
**Environment Protection Authority**  
**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the Downer bituminous pavement is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of Downer bituminous pavement remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3695)



# **Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014**

## **The Downer recovered aggregate and sand exemption 2019**

### **Introduction**

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of Downer recovered aggregate and sand from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the Downer recovered aggregate and sand order 2019'.

### **1. Waste to which this exemption applies**

- 1.1. This exemption applies to Downer recovered aggregate and sand that is, or is intended to be, applied to land as a road base, or as an asphalt matrix within the road corridor for public road related activities including road construction, maintenance and installation of road infrastructure facilities.
- 1.2. Downer recovered aggregate and sand means aggregate and sand that is derived from the processing of street sweepings, stormwater gully pits and hydro-excavated soil at the Downer facility located at 1 Unwin Street, Rosehill, NSW 2142, Environment Protection Licence ('EPL') 20896.

### **2. Persons to whom this exemption applies**

- 2.1. This exemption applies to any person who applies, or intends to apply, Downer recovered aggregate and sand to land as set out in 1.1.

### **3. Duration**

- 3.1. This exemption commences on 21 August 2019 and is valid until 21 August 2021 or until revoked by the EPA by notice in writing.

## **4. Premises to which this exemption applies**

- 4.1. This exemption applies to the premises at which the consumer's actual or intended application of Downer recovered aggregate and sand to land is carried out.

## **5. Exemption**

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of Downer recovered aggregate and sand to land within the road corridor for public road related activities include road construction, maintenance and installation of road infrastructure facilities:
  - section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
  - Part 4 of the Waste Regulation;
  - section 88 of the POEO Act; and
  - clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where Downer recovered aggregate and sand is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

## **6. Conditions of exemption**

The exemption is subject to the following conditions:

- 6.1. At the time the Downer recovered aggregate and sand is received at the premises, the material must meet all chemical and other material requirements for Downer recovered aggregate and sand which are required on or before the supply of Downer recovered aggregate and sand under 'the Downer recovered aggregate and sand order 2019'.
- 6.2. The Downer recovered aggregate and sand can only be applied to land as a road base, or as an asphalt matrix within the road corridor for public road related activities including road construction, maintenance and installation of road infrastructure facilities.
- 6.3. The Downer recovered aggregate and sand must not be used for landscaping purposes.
- 6.4. The consumer must ensure that Downer recovered aggregate and sand is not applied in or beneath water, including groundwater.
- 6.5. The consumer must keep a written record of the following for a period of six years:
  - the quantity of any Downer recovered aggregate and sand received; and
  - the name and address of the supplier of Downer recovered aggregate and sand received.
- 6.6. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.

- 6.7. The consumer must ensure that any application of Downer recovered aggregate and sand to land must occur within a reasonable period of time after its receipt.

## 7. Definitions

In this exemption:

**application or apply to land** means applying to land by:

- spraying, spreading or depositing on the land;
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**asphalt matrix** means the solid material typically comprising of sand, aggregates and similar materials bound together with bituminous and/or other similar binders.

**consumer** means a person who applies, or intends to apply, Downer recovered aggregate and sand to land.

**public roads** means:

- (a) any road that is opened or dedicated as a public road, whether under the *Roads Act 1993* (the *Roads Act*) or any other act or law, and
- (b) any road that is declared to be a public road for the purposes of the *Roads Act*.

**public road infrastructure facilities** means:

- (a) tunnels, ventilation shafts, emergency accessways, vehicle or pedestrian bridges, causeways, road-ferries, retaining walls, toll plazas, toll booths, security systems, bus lanes, transit lanes, transitways, transitway stations, rest areas and road related areas (within the meaning of the *Road Transport (General) Act 2005*), and
- (b) associated public transport facilities for roads used to convey passengers by means of regular bus services within the meaning of the *Passenger Transport Act 1990*, and
- (c) bus layovers that are integrated or associated with roads (whether or not the roads are used to convey passengers by means of regular bus services within the meaning of the *Passenger Transport Act 1990*), and
- (d) traffic control facilities (as defined by the *Transport Administration Act 1988*), RMS road safety training facilities and safety works.

**RMS** means the Roads and Maritime Services of New South Wales.

**road corridor** means land that is used for the purposes of a road or road infrastructure facilities or for maintaining or constructing a road or road infrastructure facilities and that is owned or managed by the RMS or council.

**Director Resource Recovery Policy**  
**Environment Protection Authority**  
**(by delegation)**

## Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not Downer recovered aggregate and sand is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of Downer recovered aggregate and sand remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.

Reference number:(n2020-3696)