



Government Gazette

of the State of

New South Wales

Number 204–Environment

Friday, 11 September 2020

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

Each notice in the Government Gazette has a unique reference number that appears in parentheses at the end of the notice and can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal, see the Gazette page.



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

The ANL mulch exemption September 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 ANL mulch and blended ANL mulch 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 ANL mulch order September 2020'.

1. Waste to which this exemption applies

1.1 This exemption applies to ANL mulch and blended ANL mulch that is, or is intended to be, applied to land as a soil amendment.

1.2 **ANL mulch** means mulch that contains no more than 15% by volume ANL pallets. Mulch means plant material shredded and/or screened to a preferred particle size grading for particular applications that complies with all the conditions of the Mulch order 2016. Mulch, by virtue of the nature and source of the plant material, must pose minimal risk of the presence of physical and chemical contaminants.¹

Mulch may include urban wood residues and forestry and sawmill residues. Mulch does not include plant material from kerbside waste collections.

2. Persons to whom this exemption applies

2.1 This exemption applies to any person who applies, or intends to apply, ANL mulch, or blended ANL mulch, to land as set out in 1.1.

¹ Where there is a significant risk of the presence of physical and chemical contaminants in plant material, such as from kerbside waste collections, this waste stream must be assessed against and comply with the conditions of 'the pasteurised garden organics order 2016'.

3. Duration

- 3.1 This exemption commences on 9 September 2020 and is valid until 9 September 2022 unless revoked by the EPA by notice in the Government Gazette at an earlier date.

4. Revocation

- 4.1 The ANL mulch exemption February 2018 which commenced 28 February 2018 is revoked from 9 September 2020.

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 ANL mulch and blended ANL mulch 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 ANL mulch and blended ANL mulch land 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 ANL mulch and blended ANL mulch 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 ANL mulch or blended ANL mulch is received at the premises, the material must meet all material requirements for ANL mulch and blended ANL mulch which are required on or before the supply of ANL mulch and blended ANL mulch under 'the ANL mulch order September 2020'.
- 7.2 ANL mulch and blended ANL mulch can only be applied to land as a soil amendment.
- 7.3 The consumer must ensure that they do not cause or permit the migration of leachate from the land application site.
- 7.4 The consumer must ensure that any application of ANL mulch and blended ANL mulch to land occurs within a reasonable period of time after its receipt.

8. Definitions

In this exemption:

ANL pallets means waste off-cuts of green-off-sawn from the production of pallets, which are not treated with any chemicals other than coloured, if at all, with 618-83325 CHEP Blue colourant only, and are supplied to Australian Native Landscapes Pty Ltd.

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.

consumer means a person who applies, or intends to apply, ANL mulch and blended ANL mulch to land.

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.

forestry and sawmill residues means 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.

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.

processor means a person who processes, mixes, blends, or otherwise incorporates ANL mulch or blended ANL mulch into a material in its final form for supply to a consumer. The processor in this order is Australian Native Landscapes Pty Ltd.

urban wood residues means 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 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

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 ANL mulch and blended ANL mulch 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 ANL mulch and blended ANL mulch 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.

The processor must implement procedures to prevent the presence of engineered wood products or preservative treated or coated wood residues other than those described above and/or physical contaminants in ANL mulch and blended ANL mulch. These procedures must be formally documented.

ANL mulch and blended ANL mulch 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 ANL mulch and blended ANL mulch should be land applied within 4 weeks to ensure that composting of ANL mulch does not occur. The EPA considers that 6 weeks would be the absolute limit in all circumstances.

Declaration of significantly contaminated land

Section 11 of the *Contaminated Land Management Act 1997*



Declaration No. 20201109; Area No. 3461

The Environment Protection Authority (EPA) declares the following land to be significantly contaminated land under s 11 of the *Contaminated Land Management Act 1997* (Act).

Land to which this Declaration applies

1. This Declaration applies to significantly contaminated land described as Lot 1 in DP843166, in Coffs Harbour City Council Local Government Area, 56 Clarence Street (also known as 1868 Solitary Islands Way), Woolgoolga NSW (Land).
2. A map of the Land is attached to this Declaration.

Significant Contaminants affecting the Land

3. The EPA has reason to believe that the Land is contaminated with the following substances (Significant Contaminants) in such a way as to warrant regulation as significantly contaminated land under the Act:
 - (i) Petroleum hydrocarbons including benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN).

Nature of harm caused, or that may be caused, by the Significant Contaminants

4. The EPA has reason to believe harm has, or may be caused by the Significant Contaminants, including:
 - (i) Petroleum hydrocarbons have impacted soil and groundwater beneath the site as a result of a loss of fuel from the underground petroleum storage system (UPSS) associated with service station operations.
 - (ii) The contamination includes the presence of light non-aqueous phase liquid (LNAPL) which has the potential to act as an ongoing secondary source of groundwater contamination.
 - (iii) Potential harm may be caused by the off-site migration of the contamination to human health or the environment.

Matters considered before declaring the Land to be significantly contaminated land

5. Before making this Declaration, the EPA has taken into account relevant guidelines and each of the matters listed in s 12(1) of the Act with respect to the Significant Contaminants that the EPA believes cause the Land to be contaminated.
6. The EPA believes that the Land is contaminated, and that the contamination is significant enough to warrant regulation under the Act for the following reasons.
 - (a) The groundwater beneath the Land is contaminated with the Significant Contaminants at concentrations above criteria protective of human health and the environment.

- (b) The source of contamination at the site has not been identified and it is not known whether the contamination is from a historic fuel loss from the UPSS, or is ongoing.
- (c) Light non-aqueous phase liquid has been detected beneath the site including nearby the boundary, which presents a secondary source of contamination. The extent of the contamination has not been adequately delineated and requires further investigation.
- (d) There is the potential for the contamination to migrate and impact off-site receptors, including occupants of nearby residences and properties through vapour intrusion, as well as the waters of Woolgoolga Creek. Additionally, there may be potential vapour risks to those performing subsurface works or accessing underground utilities nearby the site.
- (e) Further assessment is required to better understand the extent and risks from the contamination, and management may be required to prevent potential risks to offsite receptors from the migration of contaminated groundwater.

Further action to carry out voluntary management under the Act

- 7. The making of this Declaration does not prevent the carrying out of voluntary management of the Land by any person. Any person may submit a Voluntary Management Proposal for the Land to the EPA.

Submissions invited

- 8. Any person may make a written submission to the EPA on:
 - whether the EPA should issue a Management Order in relation to the Land; or
 - any other matter concerning the Land.
- 9. Submissions should be made in writing and sent to:

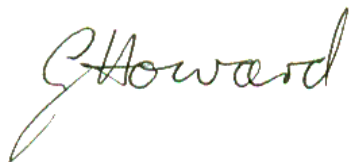
Email RegOps.MetroRegulation@epa.nsw.gov.au

or

Post Director Regulatory Operations Metropolitan South
NSW Environment Protection Authority
Locked Bag 5022
PARRAMATTA NSW 2124

Submissions should be made by no later than **5:00pm on 9 October 2020**.

- 10. Information on contaminated land management can be found on the EPA's website at: www.epa.nsw.gov.au/your-environment/contaminated-land



08/09/2020

GISELLE HOWARD
Director Regulatory Operations Metropolitan

(by delegation)

Date of this Declaration: 8 September 2020

Further information about this Declaration

Management Order may follow

If management of the Land or part of the Land is required, the EPA may issue a Management Order under s 14 of the Act.

Amendment or Repeal

This declaration may be amended or repealed. It remains in force until it is otherwise amended or repealed. The subsequent declaration must state the reasons for the amendment or repeal (s 44 of the Act).

Information recorded by the EPA

Section 58 of the Act requires the EPA to maintain a public record. A copy of this significantly contaminated land declaration will be included in the public record and is available for access at the principal office of the EPA and on the EPA's website.

Information recorded by Councils

Section 59(a) of the Act requires the EPA to inform the relevant local Council as soon as practicable of this Declaration. Pursuant to s 59(2)(a) of the Act, land being declared to be significantly contaminated land is a prescribed matter to be specified in a planning certificate issued pursuant to s 10.7 of the *Environmental Planning and Assessment Act 1979*. The EPA is also required to inform the relevant Council as soon as practicable when the declaration is no longer in force. Pursuant to s 59(3) of the *Contaminated Land Management Act 1997*, if a Council includes advice in a planning certificate regarding a declaration of significantly contaminated land that is no longer in force, the Council is to make it clear on the planning certificate that the declaration no longer applies.

Relationship to other regulatory instruments

This Declaration does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.



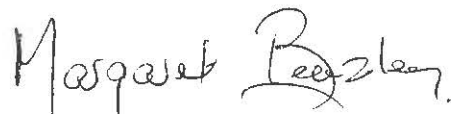
The land to which this declaration applies is shown shaded yellow and bounded by red.
Source: SIX Maps, accessed 19 March 2020.

NATIONAL PARKS AND WILDLIFE ACT 1974

**REVOCATION OF THE LAND PROCLAIMED AS
TABLE TOP WILDLIFE REFUGE**

I, Her Excellency The Honourable Margaret Beazley AC QC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the *National Parks and Wildlife Act 1974*, with the consent of every owner and occupier do, by this my Proclamation revoke the land described as **Table Top Wildlife Refuge** and notified in Government Gazette No 80 of 23 July 1971.

SIGNED and SEALED at Sydney this 12th day of August 2020



MARGARET BEAZLEY
Governor

By Her Excellency's Command



The Hon. Matthew Kean MP
Minister for Energy and Environment

GOD SAVE THE QUEEN!

Description

Land District – Albury

Council – Greater Hume

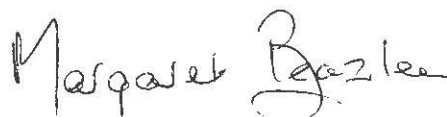
County of Goulburn, Parish of Yambla, approximately 305 hectares, being Lots 2 and 3 DP 1070024, Lot 177 DP 1100791, Lot 51 DP 1002817, Lots 7 and 8 DP 33196, BCT File DOC19/1022862

NATIONAL PARKS AND WILDLIFE ACT 1974

**REVOCATION OF PART OF THE LAND PROCLAIMED AS
WANDOKAI WILDLIFE REFUGE**

I, Her Excellency The Honourable Margaret Beazley AC QC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the *National Parks and Wildlife Act 1974*, with the consent of every owner and occupier do, by this my Proclamation revoke part of the land described as **Wandokai Wildlife Refuge** and notified in Government Gazette No. 78 of 16 July 1971 and No. 160 of 2 November 2007.

SIGNED and SEALED at Sydney this 12th day of August 2020



MARGARET BEAZLEY

Governor

By Her Excellency's Command



The Hon. Matthew Kean MP
Minister for Energy and Environment

GOD SAVE THE QUEEN!

Description

Land District – Crookwell

Council – Upper Lachlan Shire

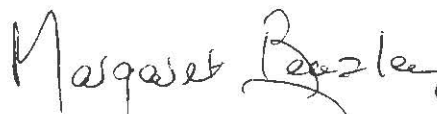
County of Mulgowrie, Parish of Georgiana, approximately 12.47 hectares, being Lot 22 of DP 1013169, BCT DOC18/756622

NATIONAL PARKS AND WILDLIFE ACT 1974

**REVOCATION OF PART OF THE LAND PROCLAIMED AS
BERRIMILLA WILDLIFE REFUGE**

I, Her Excellency The Honourable Margaret Beazley AC QC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the *National Parks and Wildlife Act 1974*, with the consent of every owner and occupier do, by this my Proclamation revoke part of the land described as **Berrimilla Wildlife Refuge** and notified in Government Gazette No. 860 of 25 February 1994.

SIGNED and SEALED at Sydney this 12th day of August 2020



MARGARET BEAZLEY

Governor

By Her Excellency's Command



The Hon. Matthew Kean MP
Minister for Energy and Environment

GOD SAVE THE QUEEN!

Description

Land District – Herons Creek Council – Port Macquarie-Hastings

County of Macquarie, Parish of Ralfe, approximately 42.25 hectares, being Lot 3 of DP 1015978, BCT DOC19/1033156

NATIONAL PARKS AND WILDLIFE ACT 1974

**REVOCATION OF THE LAND PROCLAIMED AS ROTHSAY
WILDLIFE REFUGE**

I, Her Excellency The Honourable Margaret Beazley AC QC, Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the *National Parks and Wildlife Act 1974*, with the consent of every owner and occupier do, by this my Proclamation revoke the land described as **Rothsay Wildlife Refuge** and notified in Government Gazette No. 1 of 8 January 1971.

SIGNED and SEALED at Sydney this 12th day of August 2020



MARGARET BEAZLEY
Governor

By Her Excellency's Command



The Hon. Matthew Kean MP
Minister for Energy and Environment

GOD SAVE THE QUEEN!

Description

Land District – Marthaguy

Council – Warren

County of Gregory, Parish of Dryburgh and Collyburl, approximately 1,058.85 hectares, being Lot 19, Lot 20, Lot 21, Lot 25, Lot 26, Lot 27, Lot 34, Lot 37, Lot 38 and Lot 39 of DP 753439, Lot 33, Lot 36 of DP 573437, Lot 1 of DP 650807, BCT DOC19/1033147