



Government Gazette

of the State of

New South Wales

**Number 129–Environment
Monday, 29 March 2021**

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PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Order granting exemption under section 284

Background

- (a) On 20 March 2021, Natural Disaster Declaration AGRN 960 was announced by Resilience NSW in relation to storms and floods which began on 10 March 2021. This Declaration was extended on 21 March 2021 and 24 March 2021 to include additional Local Government Areas (**LGAs**). To date, a total of 47 LGAs have been declared natural disasters.
- (b) On 22 March 2021, the New South Wales Environment Protection Authority (**EPA**) approved in writing an exemption from the calculation of the waste levy for waste arising from the recent storms and floods in those LGAs that have been declared natural disasters in accordance with the Natural Disaster Declaration AGRN 960 (**Natural Disaster Exemption**).
- (c) Based on EPA inspections and reports from some occupiers of scheduled waste disposal facilities within the LGAs that are subject to Natural Disaster Declaration AGRN 960, roads at these facilities have been saturated by the recent storms and floods and are boggy and dangerous. As a result, some facilities have had to limit the amount of waste under the Natural Disaster Exemption that they can dispose of, due to the restricted access caused by damaged roads. Operational and accessible disposal sites are critical to assist communities in their clean-up efforts to dispose of waste under the Natural Disaster Exemption.
- (d) To assist occupiers of scheduled waste disposal facilities in the disposal of waste under the Natural Disaster Exemption, the EPA has considered whether to grant an exemption under section 284 of the *Protection of the Environment Operations Act 1997* (**POEO Act**) from the provision of section 88 of the POEO Act in respect of:
 - (i) Recovered aggregate (as described, and meeting the requirements within, the Recovered Aggregate Order 2014 and Recovered Aggregate Exemption 2014 as published in the Gazette);

for use in the repair and maintenance of internal roads at scheduled waste disposal facilities that are both located within LGAs that are subject to Natural Disaster Declaration AGRN 960 and disposing of waste under the Natural Disaster Exemption.

- (e) The purpose of this Order is to exempt the occupiers of scheduled waste disposal facilities from the requirement to pay the waste levy in respect of the materials identified in paragraph (d)(i) of this Order that are used to repair and maintain the internal roads of those facilities within the LGAs that are subject to Natural Disaster declaration AGRN 960 and disposing of waste under the Natural Disaster Exemption.
- (f) The exemption under this Order only applies to scheduled waste disposal facilities that are both (i) located within LGAs that are subject to Natural Disaster Declaration AGRN 960 and (ii) disposing of waste under the Natural Disaster Exemption.

Order

By this Order, the EPA, in circumstances of an emergency, being the March 2021 storms and floods in New South Wales, grants exemption under section 284 of the POEO Act, from compliance with section 88 of the POEO Act to occupiers of scheduled waste disposal facilities, in respect of the following:

- (a) recovered aggregate (as defined, and meeting the requirement within, the Recovered Aggregate Exemption 2014 and Recovered Aggregate Order 2014 as published in the Gazette)

for use in the repair and maintenance of roads within the premises of scheduled waste disposal facilities, where those scheduled waste facilities are both located within LGAs that are subject to Natural Disaster Declaration AGRN 960 and engaged in the disposal of waste under the Natural Disaster Exemption.

Conditions

This exemption, granted under section 284 of the POEO Act, is subject to the following conditions:

1. An occupier of a scheduled waste disposal facility is not eligible for the exemption unless the Natural Disaster Exemption has been activated in respect of the facility by a local council which has been issued with an exemption certificate and natural disaster exemption number by the EPA.
2. An occupier of a schedule waste disposal facility is not eligible for the exemption in respect of recovered aggregated to be used at the scheduled waste disposal facility unless:
 - (a) the recovered aggregated meets the requirements of that material as specified in the Recovered Aggregate Exemption 2014 and Recovered Aggregate Order 2014 as published in the Gazette.
3. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate unless the scheduled waste disposal facility:
 - (a) is located within one of the LGAs that are subject to Natural Disaster Declaration AGRN 960; and
 - (b) is disposing of waste under the Natural Disaster Exemption.
4. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate unless the scheduled waste disposal facility:
 - (a) Uses the recovered aggregate for the purpose of repairing or maintaining internal roads within the premises of the scheduled waste disposal facility.
5. An occupier of a scheduled waste disposal facility is not eligible for the exemption unless the occupier complies with any requirements under Part 3, Division 1 of the *Protection of the Environment Operations (Waste) Regulation 2014* with respect to the recovered aggregate.
6. This exemption ceases to have effect on 30 April 2021.

Duration of Exemption

This Order takes effect immediately upon the signing of this Order. The Order may be revoked, varied or renewed under section 284 of the POEO Act.



Tracy Mackey
Chief Executive Officer
Environment Protection Authority
(by delegation)

28 March 2021