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PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Order granting exemption under section 284

Background

- (a) Natural Disaster Declaration AGRN 1025, AGRN 1030 and AGRN 1034 announced by Resilience NSW in relation to storms and floods which began in June 2022. To date, a total of 85 Local Government Areas (**LGAs**) have been declared natural disasters.
- (b) Under clause 21(1)(b) of the Protection of the Environment Operations (Waste) Regulation 2014 (**POEO (Waste) Regulation**) waste arising from a natural disaster that is approved by the Environment Protection Authority (**EPA**) in writing is exempt from the calculation of the waste levy under section 88 of the *Protection of the Environment Operations Act 1997* (**POEO Act**).
- (c) On 5 July 2022, the 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 1025, 1030 and 1034 (**Natural Disaster Exemption**).
- (d) The Natural Disaster Exemption applies to waste arising from the recent storms and floods but does not apply to recovered aggregate and wood waste. Roads at scheduled waste disposal facilities within the LGAs that are subject to Natural Disaster Declaration AGRN 1025, 1030 and 1034 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.
- (e) 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 POEO Act from the provision of section 88 of the POEO Act in respect of recovered aggregate (as described, and meeting the requirements within, the Recovered Aggregate Order 2014 as published in the Gazette), and wood waste (as defined in clause 50(1) of Schedule 1 to the POEO Act, and being shredded and/or screened to an appropriate particle size) 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 1025, 1030 and 1034 and are disposing of waste under the Natural Disaster Exemption.
- (f) 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 material that is used as recovered aggregate and wood waste under the Natural Disaster Exemption.
- (g) The exemption under this Order only applies to recovered aggregate and wood waste that is the subject of the Natural Disaster Exemption, it does not apply to aggregate and wood waste used at waste disposal facilities generally.

Order

By this Order, the EPA, in circumstances of an emergency, being the June/July 2022 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 Order 2014 as published in the Gazette)
- (b) wood waste (as defined in clause 50(1) of Schedule 1 to the POEO Act, and being shredded and/or screened to an appropriate particle size)

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 1025, 1030 and 1034 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 that has been issued with an exemption certificate and natural disaster exemption number by the EPA.
2. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate to be used at the scheduled waste disposal facility unless:
 - (a) the recovered aggregate meets the requirements of that material as specified in the 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 wood waste to be used at the scheduled waste disposal facility unless:
 - (a) the wood waste meets the definition under clause 50(1) of Schedule 1 to the POEO Act, and is shredded and/or screened to an appropriate particle size.
4. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate and wood waste unless the scheduled waste disposal facility:
 - (a) is located within one of the LGAs that are subject to Natural Disaster Declaration AGRN 1025, 1030 and 1034; and
 - (b) is disposing of waste under the Natural Disaster Exemption.
5. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate and wood waste unless the scheduled waste disposal facility uses the recovered aggregate and wood waste for the purpose of repairing or maintaining internal roads within the premises of the scheduled waste disposal facility.
6. 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 and wood waste.
7. This exemption ceases to have effect on 15 December 2022.

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.



Tony Chappel

Chief Executive Officer

Environment Protection Authority

Date: 7 October 2022