



# *Government Gazette*

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# PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

## Order granting exemption under section 284

### Background

- (a) The NSW Government issued Natural Disaster Declarations AGRN 1012, 1025, 1030 and 1034 in relation to severe weather and flooding throughout 2022.
- (b) Natural Disaster Declarations AGRN 1012 (NSW Severe Weather and Flooding from 22 February 2022 onwards) and AGRN 1034 (NSW Flooding from 14 September 2022 onwards) both cover the Lismore and Richmond Valley Local Government Areas.
- (c) The events referred to by Natural Disaster Declarations AGRN 1012 and 1034 caused damage to the following council managed waste and recycling facilities:
- i) The Lismore City Council operated waste facility on Wyrallah Road Lismore operating under Environment Protection Licence 5880 (**Wyallah Road Waste Facility**)
  - ii) The Lismore City Council operated resource recovery facility on Wyrallah Road Lismore, (co-located with Wyallah Road Waste Facility) operating under Environment Protection Licence 13128 (**Lismore Recycling and Recovery Centre**)
  - iii) The Richmond Valley Council operated waste facility on Dargaville Drive Casino operating under Environment Protection Licence 5872 (**Nammoona Landfill Facility**).
- (d) The main damage was to internal roads within each facility (**flood damage to internal roads**). These facilities are critical to assist communities in disaster recovery. However, due to the damaged internal roads these facilities have not been able to conduct regular waste management activities at their respective facilities since AGRN 1012 was made.
- (e) On 7 October 2022, the EPA granted an exemption under s 284 of the *Protection of the Environment Operations Act (POEO Act)* from s 88 of the POEO Act in relation to recovered aggregate and wood waste used in the repair and maintenance of internal roads at scheduled waste disposal facilities that were located within a local government area subject to AGRN 1025, 1030 and 1034 and disposing of waste under a Natural Disaster Exemption. This exemption was published in the NSW Government Gazette Number 486 of Tuesday 18 October (n2022-2044) and expired on 15 December 2022. Although each facility listed at (c)(i)-(iii) above is within a local government area subject to the AGRNs referred to in this exemption, the EPA understands that neither Lismore City Council nor Richmond Valley Council were able to complete repairs to internal roads at their respective facilities before the expiry of this exemption due to wet ground conditions following flooding at the facilities.
- (f) On 6 September 2022 Lismore City Council requested a further exemption from the requirement to pay the waste levy for materials applied to land to repair flood damage to internal roads at the Wyallah Road Waste Facility and Lismore Recycling and Recovery Facility.
- (g) From discussions with Richmond Valley Council the EPA understands the Nammoona Landfill Facility is in a similar situation to Wyallah Road Waste Facility with regards to damaged internal roads affecting operations as a result of the events referred to by Natural Disaster Declarations AGRN 1012 and 1034. The EPA therefore considers it appropriate for the exemption requested by Lismore City Council to also apply to

Richmond Valley Council to assist with them with returning the facility to normal operations.

- (h) To assist Lismore City Council and Richmond Valley Council in their recovery from natural disaster events, the EPA has considered whether to grant an exemption under s 284 of the POEO Act from s 88 of the POEO Act as it relates to recovered aggregate within the meaning of the Recovered Aggregate Order 2014 published in NSW Government Gazette No 112 of 21 November 2014 (the **Recovered Aggregate Order 2014**), for use in repairing flood damage to internal roads at the premises to which Environment Protection Licences 5880, 13128, and 5872 apply.
- (i) The purpose of this Order is to exempt Lismore City Council and Richmond Valley Council from the requirement to pay the waste levy in respect of recovered aggregate applied to land to repair flood damage to internal roads at the facilities specified in this Order. Repair of these roads is essential to restore full waste management and disposal operations at the facilities.

### **Order**

By this Order, the EPA, in an emergency (being the events referred to in AGRN 1012 and 1034) grants an exemption under section 284 of the POEO Act from compliance with section 88 of the POEO Act to the holders of EPLs 5880, 13128, and 5872 (the **Councils**) in respect of recovered aggregate, within the meaning of the Recovered Aggregate Order 2014, used to repair flood damage to internal roads within the premises to which EPLs 5880, 13128, and 5872 apply.

### **Conditions**

This exemption under this Order is subject to the following conditions:

1. The Councils must comply with the requirements in clauses 4.4 and 4.5 (chemical and other material requirements) and clauses 4.6 and 4.7 (test methods) of the Recovered Aggregate Order 2014 for any recovered aggregate used to repair internal roads under this order as if the recovered aggregate was subject to those clauses.
2. The Councils must record the following information in relation to any recovered aggregate used to repair flood damage to internal roads under this Order:
  - a. evidence of compliance with Condition 1;
  - b. the amount of recovered aggregate used; and,
  - c. the date on which the recovered aggregate is used.
3. The Councils must comply with the requirements in cl 33 (keeping, retention and availability of records) of the *Protection of the Environment Operations (Waste Regulation 2014* as if that clause applied to the Councils in respect of the information referred to in condition 2.

Note: The Councils must still comply with all applicable requirements in Part 3, Division 1 (record keeping) of the *Protection of the Environment Operations (Waste) Regulation 2014* and any applicable requirements in the Recovered Aggregate Order 2014.

## **Duration of Exemption**

This Order takes effect immediately upon the signing of this Order and continues until 31 July 2023 unless otherwise revoked, varied or renewed. The Order may be revoked, varied or renewed under section 284 of the POEO Act.

**Stephen Beaman PSM**  
**Executive Director Regulatory Operations**  
**Environment Protection Authority**  
**(By delegation)**

14 February 2023