



New South Wales

Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017

under the

Protection of the Environment Operations Act 1997

[*The following enacting formula will be included if this Regulation is made.*]

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

Minister for the Environment

Explanatory note

The objects of this Regulation are as follows:

- (a) to create an offence of exhuming waste from a landfill site (maximum penalty of \$44,000 if the offence is committed by a corporation and \$22,000 if the offence is committed by an individual),
- (b) to make it a condition of an environment protection licence for a scheduled waste disposal facility that waste must not be transported from the facility,
- (c) to make it a condition of an environment protection licence for a **construction and demolition waste facility** (being a scheduled waste facility in certain areas that has received 6,000 tonnes or more of construction waste in any 12-month period) that the requirements set out in the *Standards for managing construction waste in NSW* prepared by the EPA are complied with at the facility,
- (d) to make provision with respect to waste contributions payable by occupiers of scheduled waste facilities, including with respect to deductions for the transportation of waste and permitting the Environment Protection Authority to make estimates as to the amount of waste at a facility, and to provide a rebate in certain circumstances,
- (e) to permit (with the approval of the EPA) the use of waste as biofilters or bedding layers in a landfill,
- (f) to make further provision with respect to the transportation or disposal of asbestos waste,
- (g) to modify the scheduled activities of energy recovery, resource recovery, waste processing (non-thermal treatment) and waste storage set out in Schedule 1 to the *Protection of the Environment Operations Act 1997* (the *Act*) and to update the definition of **organics** in that Schedule,
- (h) to exempt certain scheduled waste facilities from the requirement to have a weighbridge installed,
- (i) to require video monitoring systems at scheduled waste facilities to be maintained, for recordings to be kept for 3 years and to prohibit activities taking place when the system is not fully operational,
- (j) to remove a provision restricting the transport of waste more than 150 kilometres,
- (k) to make further provision with respect to exemptions from provisions of the Act and the *Protection of the Environment Operations (Waste) Regulation 2014* relating to resource recovery,

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- (l) to exempt the occupier of a landfill site that receives only virgin excavated natural material from certain reporting requirements,
- (m) to provide that certain activities carried out in relation to the management or remediation of contaminated land is not land pollution,
- (n) to provide for the issue of penalty notices for certain offences,
- (o) to update references to merged and renamed local government areas.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 5 (3), 88 (2), (3) and (5), 222, 226, 227 (1) and (3), 286 and 323 (the general regulation-making power), Schedule 2 and the Dictionary (paragraph (b) of the definition of **land pollution** or **pollution of land** and paragraphs (d) and (e) of the definition of **waste**).

Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017*.

2 Commencement

- (1) Except as provided by subclause (2), this Regulation commences on the day on which it is published on the NSW legislation website.
- (2) Schedule 2 [29] commences 6 months after the day on which this Regulation is published on the NSW Legislation website.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

[1] Schedule 1 Scheduled activities

Insert “if the activity meets the criteria to be the scheduled activity of waste disposal (thermal treatment)—” before “an exemption” in clause 18 (3) (b).

[2] Schedule 1, clause 34 (2B)

Insert after clause 34 (2A):

- (2B) This clause also does not apply to the receiving of waste at premises from off site and its processing if the only waste received from off site is untreated wood waste (other than sawdust or wood shavings) and that wood waste is processed by being cut or split into smaller pieces (other than by chipping) for sale as firewood.

[3] Schedule 1, clause 41 (2AB)

Insert after clause 41 (2AA):

- (2AB) This clause also does not apply to the receiving of waste at premises from off site and its processing if the only waste received from off site is untreated wood waste (other than sawdust or wood shavings) and that wood waste is processed by being cut or split into smaller pieces (other than by chipping) for sale as firewood.

[4] Schedule 1, clause 42 (1A)

Insert after clause 42 (1):

- (1A) Waste is taken to be stored at premises for the purposes of this clause even if the waste is merely being transferred at those premises between units of rolling stock, motor vehicles or trailers.

[5] Schedule 1, clause 42 (2C)

Insert after clause 42 (2B):

- (2C) This clause also does not apply to the receiving of waste at premises from off site and its storage if the only waste received from off site is untreated wood waste (other than sawdust or wood shavings) and that wood waste has been cut or split into smaller pieces (other than by chipping) as firewood.

[6] Schedule 1, clause 50 (1), definition of “organics”

Omit “biosolids and animal materials” from paragraph (a).

Insert instead “animal materials and biosolids (other than biosolids categorised as unrestricted use, or as restricted use 1, 2 or 3, in accordance with the criteria set out in the *Biosolids Guidelines*)”.

[7] Schedule 1, clause 50 (1), definition of “regulated area”

Omit the definition. Insert instead:

regulated area means the local government areas of Ballina, Bayside, Bellingen, City of Blacktown, City of Blue Mountains, Burwood, Byron, Camden, City of Campbelltown, Canada Bay, Canterbury-Bankstown, Central Coast, City of Cessnock, Clarence Valley, City of Coffs Harbour, Cumberland, Dungog, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter’s Hill, Inner West, Kempsey, Kiama, Ku-ring-gai, Kyogle,

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City of Lake Macquarie, Lane Cove, City of Lismore, City of Liverpool, City of Maitland, Mid-Coast, Mosman, Muswellbrook, Nambucca, City of Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, Port Macquarie-Hastings, Port Stephens, City of Randwick, Richmond Valley, City of Ryde, City of Shellharbour, City of Shoalhaven, Singleton, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Tweed, Upper Hunter Shire, Waverley, City of Willoughby, Wingecarribee, Wollondilly, City of Wollongong and Woollahra.

Schedule 2 Amendment of Protection of the Environment Operations (Waste) Regulation 2014

[1] Clause 3 Interpretation

Insert in alphabetical order:

metropolitan levy area or *MLA* means the local government areas of Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canada Bay, Canterbury-Bankstown, Central Coast, City of Cessnock, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Inner West, Kiama, Ku-ring-gai, City of Lake Macquarie, Lane Cove, City of Liverpool, City of Maitland, Mosman, City of Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, Port Stephens, City of Randwick, City of Ryde, City of Shellharbour, City of Shoalhaven, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Wingecarribee, City of Wollongong and Woollahra.

[2] Part 2 Contributions by occupiers of scheduled waste facilities

Insert after the heading to the Part:

Note. Section 88 of the Act provides that the occupier of a waste facility that is required to have an environment protection licence must pay a contribution to the EPA in respect of all waste received at the facility. This Part sets out how that contribution is to be determined. Division 3 provides how the contribution is to be calculated. Division 4 sets out deductions that may be made from any such contribution and Division 2 sets out how and when the contribution is to be paid. Division 5 sets out some exemptions from the requirement to pay a contribution and Division 6 requires the occupier to report to the EPA on the amount of waste received in a month to ensure that the correct contribution is paid.

[3] Clause 7 Definitions

Omit the definition of *metropolitan levy area* or *MLA*.

[4] Clause 7, definition of "regional levy area or RLA"

Omit the definition. Insert instead:

regional levy area or *RLA* means the local government areas of Ballina, Bellingen, City of Blue Mountains, Byron, Clarence Valley, City of Coffs Harbour, Dungog, Kempsey, Kyogle, City of Lismore, Mid-Coast, Muswellbrook, Nambucca, Port Macquarie-Hastings, Richmond Valley, Singleton, Tweed, Upper Hunter Shire and Wollondilly.

[5] Clause 10B

Omit the clause. Insert instead:

10B When contributions are to be paid by waste facilities that are not disposal facilities (except for trackable liquid waste)

- (1) For the purposes of section 88 (3) (b) of the Act, the time within which a contribution payable by an occupier of a waste facility that is not a scheduled waste disposal facility is to be paid in respect of waste (other than trackable liquid waste) received at the facility is:
 - (a) 26 days after the end of the month following the month in which the waste is transported from the facility if, before the end of the 12-month period after the end of the month in which it was received:
 - (i) the waste is transported from the facility, or

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- (ii) the waste has been processed at the facility to any standards required by a resource recovery order applying, at the time that the processing is completed, to the occupier of the facility in relation to the supply of the waste, or
 - (b) 26 days after the end of the month following the month in which the waste is received if, at the end of the month in which the waste is received:
 - (i) the amount of waste at the facility (other than trackable liquid waste and waste generated at the facility, but including waste generated at the facility from waste received at the facility) exceeds the authorised amount, and
 - (ii) the waste forms part of the amount by which the authorised amount is exceeded, or
 - (c) 12 months after the end of the month in which the waste is received at the facility in any other case.
- (2) In this clause:
- authorised amount**, in relation to a waste facility, means the maximum amount of waste that may be at the facility at any one time under the terms of the environment protection licence for the facility.
- resource recovery order** means an order made under Part 9.

[6] Clause 11 Determination of rate

Omit “10 cents and, if the amount to be rounded is 5 cents, rounded up” from clause 11 (1) (b).

Insert instead “10 cent multiple (with an amount of 5 cents to be rounded up)”.

[7] Clause 12 Calculation of contributions

Omit “nearest cent (rounding 0.5 cent upwards)” from clause 12 (6).

Insert instead “nearest 10 cent multiple (with an amount of 5 cents to be rounded up)”.

[8] Clause 12 (7) (a) and (b)

Insert “at a scheduled waste disposal facility” after “2014” wherever occurring.

[9] Clause 12 (7) (c)

Insert at the end of 12 (7) (b):

, and

- (c) the **MLA amount** or **RLA amount**, in respect of recovered fines (being a soil or sand substitute having a particle size of no more than 50mm derived from the processing of construction and demolition waste or skip bins) received on or after **[date to be inserted]** and used as daily cover at a scheduled waste disposal facility that is authorised (in the environmental protection licence for the facility) to receive the recovered fines is 50 per cent of the MLA amount, or RLA amount, otherwise applying for the purposes of this Division (as calculated under clause 11).

[10] Clause 12 (8)

Omit “to two decimal places (rounding 0.005 cent upwards)”.

Insert instead “to the nearest 10 cent multiple (with an amount of 5 cents to be rounded up)”.

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[11] Clause 15 Approval of operational purpose

Insert at the end of the table to clause 15 (1):

10	Waste of any kind	Bedding layers to protect landfill lining systems if the layers are of a kind specified in the Waste Levy Guidelines
11	Biofilter media and aggregate layers	Biofilters for pollution or odour control (including underlying aggregate layers) of a kind specified in the Waste Levy Guidelines

[12] Clause 15 (7)

Insert after clause 15 (6):

- (7) The EPA may grant an exemption under clause 91 to the occupier of a scheduled waste facility from the requirement under section 48 of the Act to hold a licence for the scheduled activity of waste disposal in respect of waste used at the facility for an operational purpose approved by the EPA.

[13] Clauses 16 and 16A

Omit clause 16. Insert instead:

16 Transported waste deduction other than for trackable liquid waste

- (1) The occupier of a scheduled waste facility who is required to pay a contribution under section 88 of the Act may deduct from a contribution payable under that section an amount in respect of:
- (a) waste received at the facility that has been recovered, recycled or processed at that facility (in accordance with any requirements of the Waste Levy Guidelines) and transported from the facility to another place for a lawful use, or
 - (b) waste that has been processed at the facility (to any standards required by a resource recovery order applying at the time that the processing is completed to the occupier of the facility in relation to the supply of the waste) and transported from the facility to another place for a lawful use, or
 - (c) waste transported from the scheduled waste facility to another facility for recovery, recycling, processing or disposal but only if the occupier satisfies the EPA that the other facility may lawfully be used as a waste facility and that the waste was received by the other facility for lawful recovery, recycling, processing or disposal.
- (2) A deduction is not available under this clause in respect of:
- (a) trackable liquid waste received at the facility, or
 - (b) landfill gas or anything derived from landfill gas, or
 - (c) landfill leachate or anything derived from landfill leachate.
- (3) A deduction is not available under this clause in respect of waste transported from a scheduled waste disposal facility unless the occupier of the facility satisfies the EPA of any one or more of the following:
- (a) the waste was transported in an emergency to protect human health or the environment,
 - (b) the waste consists only of metals and was transported for further processing or recovery,

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- (c) the waste consists only of virgin excavated natural material within the meaning of Schedule 1 to the Act.
- (4) A deduction is not available under this clause unless the person claiming the deduction satisfies the EPA, using such records as the EPA may require, of the matters set out in subclause (1) (a), (b) or (c).
- (5) The EPA may require, by notice in writing, that the occupier of a scheduled waste facility who obtains a deduction under this clause:
 - (a) engage an independent person (approved by the EPA) to conduct an audit of, and to prepare a report on, deductions claimed under this clause for the period specified in the notice, and
 - (b) to ensure that a copy of the report is provided to the EPA within the time specified in the notice.
- (6) An occupier to whom a notice is given must comply with the notice.
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

16A Deduction for waste received at facility that is not disposal facility

The occupier of a scheduled waste facility that is not a scheduled waste disposal facility who is required to pay a contribution under section 88 of the Act may deduct from a contribution payable under that section an amount (of no more than the authorised amount within the meaning of clause 10B) in respect of waste received at the facility within the previous 12 months.

[14] Clause 18 Provisions applicable in relation to all deductions

Insert after clause 18 (1):

- (1A) A deduction is not available under this Division, in respect of waste received at a waste facility other than a scheduled waste disposal facility, if the waste was received at the facility more than 12 months before the date of the deduction.

[15] Clause 19 Payment of contributions for putrescible waste landfill sites subject of supervisory licence

Omit the clause.

[16] Clause 23 Periodic volumetric surveys of scheduled waste facilities

Omit clause 23 (1) (b). Insert instead:

- (b) in any other case:
 - (i) determine the amount of waste at the facility in a manner and at such time as may be required by the EPA by notice in writing to the occupier, and
 - (ii) keep records of the results in accordance with the requirements specified in the notice and
 - (iii) provide the results to the EPA in accordance with the requirements of the notice.

[17] Clause 25 Interest on unpaid contributions

Omit “and as compound interest” from clause 25 (1).

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[18] Clause 25A and 25B

Insert after clause 25:

25A EPA may estimate changes to mass of waste

- (1) This clause applies if the EPA reasonably believes that the mass of waste may have changed while it is at a scheduled waste facility or the occupier of the facility has incorrectly calculated the mass of waste at a facility.
- (2) The EPA may, for the purposes of this Part, estimate the amount of waste at a facility at a particular time and as a result of that estimate adjust a report under clause 22 and any contribution liability accordingly.
- (3) The EPA, in making an estimation under this clause, may take into consideration any information available to the EPA including any volumetric surveys of the waste, the records of the facility and any information provided by an authorised officer who has inspected the facility.
- (4) This clause applies to a scheduled waste facility regardless of whether the facility is also permitted to carry out waste disposal.

25B Rebate of contribution

The EPA may pay a rebate to the occupier of a scheduled waste facility that is not a scheduled waste disposal facility of an amount equivalent to any contribution under section 88 of the Act in respect of waste if the EPA is satisfied that the waste has been transported from the scheduled waste facility for recovery, recycling, processing or disposal to another facility that may lawfully be used as a waste facility and that the waste was received for lawful recovery, recycling, processing or disposal.

[19] Clause 36 Weighbridges at facilities whose occupiers are required to pay waste contributions

Omit clause 36 (2). Insert instead:

- (2) This clause does not apply to the occupier of a scheduled waste facility that receives only the following waste for storage, treatment, processing, sorting or disposal:
 - (a) clinical and related waste,
 - (b) hazardous waste,
 - (c) liquid waste,
 - (d) restricted solid waste.

[20] Clause 39 EPA may require video monitoring system

Omit clause 39 (1) (a). Insert instead:

- (a) to install, operate and maintain in the manner specified in the notice a video monitoring system that conforms with the specifications in the notice, and

[21] Clause 39 (2) (a1)

Insert after clause 39 (2) (a):

- (a1) ensure that no activity take place under the environment protection licence for the facility at any time when the video monitoring system is not fully operational, and

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[22] Clause 39 (2) (b)

Omit “one year”. Insert instead “3 years”.

[23] Clause 64 Definitions

Omit the definition of *metropolitan levy area*.

[24] Clause 71 Application of proximity principle to transportation in course of business

Omit the clause.

[25] Clause 78

Omit the clause. Insert instead:

78 General requirements applying to transportation of asbestos waste

- (1) A person who transports asbestos waste must ensure that any part of any vehicle in which the person transports the waste is covered, and leak-proof, during its transportation.
- (2) A person who transports bonded asbestos material must ensure that it is securely packaged during its transportation.
- (3) A person who transports friable asbestos material must ensure that it is in a sealed container during its transportation.
- (4) A person who transports asbestos waste (other than bonded asbestos material that is securely packaged or friable asbestos material that is in a sealed container) must ensure that it is wetted down during its transportation.

Maximum penalty: 400 penalty units in the case of a corporation, 200 penalty units in the case of an individual.

[26] Clause 80 Disposal of asbestos waste

Omit clause 80 (3). Insert instead:

- (3) The following persons must ensure that when a person unloads or disposes of asbestos waste at a landfill site (regardless of whether the site is subject to an environment protection licence) no dust is generated from the waste:
 - (a) the person unloading or disposing of the asbestos waste,
 - (b) the occupier of the landfill site.

[27] Clause 80 (4)

Omit “The occupier”.

Insert instead “Subject to any alternative cover conditions provided in an environment protection licence held by the occupier or approved in writing by the EPA, the occupier”.

[28] Clause 80 (4)

Omit “or (if expressly authorised by an environment protection licence held by the occupier) other material”.

[29] Part 8A

Insert after clause 90:

Part 8A Construction and demolition waste facilities

90A Definitions

In this Part:

construction includes demolition, repair or alteration.

construction and demolition waste facility—see clause 90B.

construction waste means:

- (a) material that results from the construction of buildings or infrastructure (such as roads, tunnels and airports and infrastructure for sewage, water, electricity and telecommunications) and includes materials such as:
 - (i) bricks, concrete, paper, plastics, glass and metal, and
 - (ii) timber, including unsegregated timber, that may contain timber treated with chemicals, and
 - (iii) soil or other excavated material (but not virgin excavated natural material within the meaning of Schedule 1 to the Act), and

Note. **Construction waste** includes all **building and demolition waste** within the meaning of Schedule 1 to the Act.

- (b) material processed from any material to which paragraph (a) applies,
- (c) waste that contains any material to which paragraph (a) or (b) applies.

Standards for managing construction waste in NSW means the *Standards for managing construction waste in NSW* prepared by the EPA published in Gazette [details to be inserted]

90B Construction and demolition waste facility

- (1) A scheduled waste facility that is not solely a scheduled waste disposal facility is a **construction and demolition waste facility** for the purposes of this Part if:
 - (a) it is in the metropolitan levy area and it receives 6,000 tonnes or more of construction waste in any 12-month period, or
 - (b) it is in the regional levy area and it receives 6,000 tonnes or more of construction waste from the metropolitan levy area in any 12-month period.
- (2) A facility that is a construction and demolition waste facility continues to be a construction and demolition waste facility for the remaining period of its environment protection licence even if it ceases to receive construction waste.

90C Compliance with standards

- (1) It is a condition of an environment protection licence for a scheduled waste facility that is a construction and demolition waste facility that the requirements set out in the *Standards for managing construction waste in NSW* are complied with at the facility.
- (2) The EPA may require, by notice in writing, that the holder of an environment protection licence for a scheduled waste facility that is a construction and demolition waste facility:
 - (a) engage a person (approved by the EPA) to conduct an audit of, and to prepare a report on, the occupier's compliance with subclause (1), and

- (b) ensure that the audit and report are completed and a copy of the report is provided to the EPA.
- (3) It is a condition of an environment protection licence for a scheduled waste facility that is a construction and demolition waste facility that the requirements of any notice given to the holder under this clause are complied with within the time (if any) specified in the notice.

90D Exemptions

The EPA may grant an exemption under Part 9 from any provisions of this Part.

[30] Clause 92 Exemptions relating to resource recovery

Omit clause 92 (1). Insert instead:

- (1) This clause applies to:
 - (a) waste (including any processed, recycled, re-used or recovered substance that is produced wholly or partly from waste) that is, or is intended to be used as a fuel, or
 - (b) waste (including any processed, recycled, re-used or recovered substance that is produced wholly or partly from waste) that is, or is intended to be applied to land as follows:
 - (i) by spraying, spreading or depositing it on the land,
 - (ii) by ploughing, injecting or mixing it into the land,
 - (iii) by filling, raising, reclaiming or contouring the land, or
 - (c) waste (not including any processed, recycled, re-used or recovered substance that is produced wholly or partly from waste) used, or intended to be used, in connection with a process of thermal treatment.

[31] Clause 93 Supply of waste to which resource recovery exemptions apply

Omit clause 93 (2). Insert instead:

- (2) An order can only be issued under this clause in relation to the supply by a person of:
 - (a) resource recovery waste that has been generated, processed or recovered by the person, or
 - (b) waste that will become resource recovery waste.

[32] Clause 109 Reporting requirements for non-paying waste facilities, and for landfill sites outside regulated area

Omit clause 109 (2). Insert instead:

- (2) However, this clause does not apply to the occupier of any landfill site that receives virgin excavated natural material only (and not any other type of waste).

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Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017 [NSW]
Schedule 2 Amendment of Protection of the Environment Operations (Waste) Regulation 2014

[33] Clauses 110A and 110B

Insert after clause 110:

110A Offence to exhume waste from landfill site

- (1) The occupier of land that is or was a landfill site must ensure that waste is not exhumed from the land.
Maximum penalty: 400 penalty units in the case of a corporation, 200 penalty units in the case of an individual.
- (2) This clause does not affect the operation of a scheduled waste facility that is operating on a former landfill site if the landfill site is closed and capped and no waste is removed from beneath that cap.
- (3) This clause does not apply if the waste is exhumed as a consequence of works authorised in writing by the EPA, or authorised by the environment protection licence for the facility, and notified to the EPA in writing at least 2 days (or such greater period as may be specified in the written authorisation of the EPA or the environment protection licence) before the works commence.
- (4) It is a defence in any proceedings for an offence against this clause if the defendant establishes that:
 - (a) the waste was exhumed in an emergency to protect human health or the environment, or
 - (b) the waste was exhumed in accordance with a direction of the EPA or because the exhumation was otherwise required or authorised by law.

110B Must not transport waste from landfill site

- (1) It is a condition of an environment protection licence for a scheduled waste disposal facility that waste must not be transported from the facility.
- (2) Subclause (1) does apply to the transport of waste if:
 - (a) the waste is transported in an emergency to protect human health or the environment, or
 - (b) the waste is transported in accordance with a direction of the EPA or because the transportation was otherwise required or authorised by law, or
 - (c) the waste consists only of metals and is transported for further processing or recovery, or
 - (d) the waste consists only of virgin excavated natural material within the meaning of Schedule 1 to the Act.

[34] Schedule 1A Savings and transitional provisions

Insert after Part 1:

**Part 2 Provisions consequent on commencement of
Protection of the Environment Operations
Legislation Amendment (Waste) Regulation 2017**

5 Construction waste facility

In calculating a 12-month period for the purposes of clause 90B all or part of the period commencing 12 months before the commencement of that clause may be included.

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Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017 [NSW]
Schedule 3 Amendment of Protection of the Environment Operations (General) Regulation 2009

Schedule 3 Amendment of Protection of the Environment Operations (General) Regulation 2009

[1] Clause 51A

Insert after clause 51:

51A Fit and proper persons

For the purposes of section 83 (2) (o) of the Act, the appropriate regulatory authority may take into account whether the person has, within the previous 3 years, failed to pay any fee or other amount payable under the environment protection legislation or has paid any such fee or amount late.

[2] Clause 109 Definition of “land pollution”

Insert after clause 109 (1):

(1A) Matter referred to in subclause (1) is excluded from the definition of *land pollution* or *pollution of land* in the Dictionary to the Act if the matter is placed in or on, or otherwise introduced into or onto, land on which the matter was generated:

- (a) in accordance with an approved voluntary management proposal, management order, ongoing maintenance order under the *Contaminated Land Management Act 1997* or a public positive covenant or restriction imposed under section 29 of that Act, or
- (b) as part of category 1 remediation work carried out under *State Environmental Planning Policy No 55—Remediation of Land*.

[3] Schedule 6 Penalty notice offences

Omit the matter relating to clauses 78, 80 (1), 80 (2), 80 (3) and 80 (4) from beneath the heading “*Protection of the Environment Operations (Waste) Regulation 2014*”.

Insert in appropriate order:

Clause 16 (6)	3	\$750	\$1,500
Clause 78 (1)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 78 (2)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)

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Clause 78 (3)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 78 (4)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 80 (1)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 80 (2)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 80 (3)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)

public consultation draft

Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2017 [NSW]
Schedule 3 Amendment of Protection of the Environment Operations (General) Regulation 2009

Clause 80 (4)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 110A (1)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)