



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

The Concrush Recovered Aggregate Exemption 2021

Introduction

This exemption, 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), exempts a consumer of Concrush Pty Ltd recovered aggregate from certain requirements 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 Concrush Recovered Aggregate Order 2021'. This exemption applies to Concrush recovered aggregate that is, or is intended to be, applied to land for the purposes set out in this exemption.

1. Waste to which this exemption applies

- 1.1. This exemption applies to Concrush recovered aggregate that is, or is intended to be, applied to land for roadbase material, drainage aggregates and packing fines.
- 1.1. In this exemption, Concrush recovered aggregate means a mixture of aggregates and sand from original concrete that contains hydrated lime and other cementitious materials, recycled concrete (including washout material and wet concrete), bricks, tiles, gravel, asphalt, roadbase and slag roadbase. The Concrush recovered aggregate is processed at Concrush Pty Ltd (21 Racecourse Road, Teralba NSW 2284; Environment Protection Licence EPL Number 13351; and ACN 097 606 543).

2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies or intends to apply Concrush recovered aggregate to land as set out in 1.1.

3. Duration

- 3.1. This exemption commences on 21 December 2021 and is valid until 21 December 2023 unless revoked by the EPA by notice in writing at an earlier date.

4. Premises to which this exemption applies

- 4.1 This exemption applies to the premises at which the consumer's actual or intended application of Concrush recovered aggregate is carried out.

5. Revocation

- 5.1. The Concrush Recovered Aggregate Exemption 2021 which commenced on 23 March 2020 is revoked from 21 December 2021.

6. Exemption

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the consumer's actual or intended application of Concrush recovered aggregate to land as fill or capping material 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
 - clauses 109 and 110 of the Waste Regulation.
- 6.2. The exemption does not apply in circumstances where Concrush recovered aggregate 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 Concrush recovered aggregate is received at the premises, it must meet all the requirements which are required on or before the supply of Concrush recovered aggregate under 'The Concrush Recovered Aggregate order 2021'.
- 7.2. The Concrush recovered aggregate can only be applied to land in roadbase material, drainage aggregates and packing fines.
- 7.3. This approval does not apply to any of the following applications:
 - 7.3.1. Construction of dams or related water storage infrastructure;
 - 7.3.2. Mine site rehabilitation;
 - 7.3.3. Quarry rehabilitation;
 - 7.3.4. Sand dredge pond rehabilitation;
 - 7.3.5. Back filling of quarry voids;
 - 7.3.6. Raising or reshaping of land used for agriculture; and
 - 7.3.7. Construction of roads or private land unless:
 - (a) The Concrush recovered aggregate is applied only to the minimum extent necessary for the construction of the road, and
 - (b) A development consent has been granted under the relevant Environmental Planning Instrument (EPI), or
 - (c) It is to provide access (temporary or permanent) to a development approved by a council, or
 - (d) The works are either exempt or complying development.
- 7.4. The consumer must keep a written record of the following for a period of six years:

- 7.4.1. the quantity of Concrush recovered aggregate received; and
- 7.4.2. the name and address of the supplier of Concrush recovered aggregate received.
- 7.5. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 7.6. The consumer must ensure that any application of Concrush recovered aggregate to land occurs within a reasonable period of time.

8. Definitions

In this exemption:

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, Concrush recovered aggregate to land.

roadbase means the layer of aggregates under the paved layer of a road.

slag roadbase means roadbase that contains slag, a by-product of iron and steel manufacturing processes.



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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.

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 Concrush recovered aggregate 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 Concrush recovered aggregate 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.